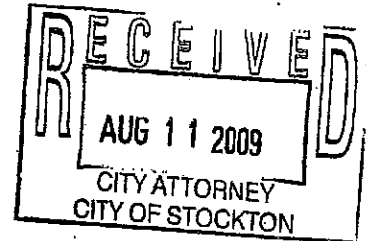


1 Richard E. Nosky, Jr., SBN: 130726  
City Attorney  
2 CITY OF STOCKTON  
425 N. El Dorado Street  
3 Stockton, CA 95202  
Telephone: (209) 937-8333  
4 Facsimile: (209) 937-8898  
5 Benjamin P. Fay, SBN: 178856  
Rick W. Jarvis, SBN: 154479  
6 JARVIS, FAY, DOPORTO & GIBSON, LLP  
475 - 14<sup>th</sup> Street, Suite 260  
7 Oakland, CA 94612  
Telephone: (510) 238-1400  
8 Facsimile: (510) 238-1404  
9 Attorneys for Defendant  
CITY OF STOCKTON  
10

FILED  
SUPERIOR COURT - STOCKTON  
09 JUL 15 AM 10:16  
JUNQUEIRO, CLERK  
TRACY DYCKHOORN  
DEPUTY



11 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **IN AND FOR THE COUNTY OF SAN JOAQUIN**  
13

14 HOWARD JARVIS TAXPAYERS ASSN.; )  
15 PATRICK SAMSELL; JAMES WATSON, )

CASE NO: CV 030686

16 Plaintiffs,  
17

**STIPULATION FOR ENTRY OF JUDGMENT**

18 v.

19 CITY OF STOCKTON; ADRIAN VAN  
HOUTEN, in his official capacity as San  
20 Joaquin County Auditor/Controller,

Complaint Filed: October 10, 2006

21 Defendants.  
22

23 **RECITALS**

24 1. In the 1978-79 fiscal year, the City of Stockton began making annual transfers  
25 from its water and wastewater utility funds into its general fund. The transfers were set at 0.5%  
26 of each utility's assets with a 2% inflation factor.

27 2. In the 2002-03 fiscal year, the transfers from the water and wastewater utility  
28 funds were increased to 1% of the assets of each utility with a 2% inflation factor. Half of the

1 transfers went into the general fund and half went into the infrastructure reinvestment fund.

2 3. In the 2002-03 fiscal year, the City began making annual transfers from its storm  
3 water utility fund into its general fund and its infrastructure reinvestment fund. The transfers  
4 were set at 1% of the utility's assets with a 2% inflation factor. Half of each transfer went into  
5 the general fund and half went into the infrastructure reinvestment fund.

6 4. The Plaintiffs Howard Jarvis Taxpayers Association, Patrick Samsell, and James  
7 Watson filed this action contending, among other things, that the transfers violated Proposition  
8 218 on the grounds that the transfers caused utility fees to be used for purposes other than  
9 providing the utility services for which the fees were charged. Neither Plaintiffs nor Defendants  
10 admit liability or fault, and the City specifically denies the allegations in the complaint and  
11 denies that Plaintiffs are entitled to any relief.

12 5. The Defendant Adrian van Houten, named in his official capacity as San Joaquin  
13 County Auditor/Controller, has not appeared in this action.

#### 14 PURPOSE

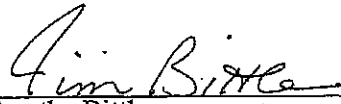
15 6. Notwithstanding the foregoing, the parties desire to finally settle all issues raised  
16 by the complaint, to obtain the Court's approval of the settlement as a reasonable and fair  
17 resolution of said issues, and to bind all interested persons to a judgment over which the Court  
18 retains jurisdiction for the purpose of enforcing the settlement, pursuant to the provisions of  
19 Code of Civil Procedure section 664.6.

#### 20 STIPULATION

21 7. NOW, THEREFORE, the Plaintiffs Howard Jarvis Taxpayers Association,  
22 Patrick Samsell, and James Watson, together with the Defendant City of Stockton hereby  
23 stipulate and request that the Court enter judgment in accordance with the form of judgment  
24 attached hereto as Exhibit "A." The parties waive any right to appeal from or to otherwise  
25 challenge the judgment. In the event the Court does not approve this stipulation and enter  
26 judgment in accordance therewith, this stipulation and the proposed judgment shall be void, and  
27 of no evidentiary effect in any further proceedings. This stipulation may be signed on separate  
28 sheets.

1 8. If the Court approves this stipulation, the Plaintiffs Howard Jarvis Taxpayers  
2 Association, Patrick Samsell, and James Watson will dismiss the Defendant Adrian van Houten  
3 with prejudice by filing a request for dismissal in the form as attached hereto as Exhibit "B."  
4  
5

6 Dated: June 22, 2009

  
\_\_\_\_\_  
Timothy Bittle  
Director of Legal Affairs for the  
Howard Jarvis Taxpayers Association

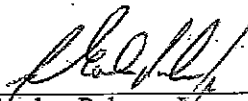
7  
8  
9  
10 Dated: \_\_\_\_\_

\_\_\_\_\_  
Patrick Samsell

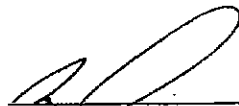
11  
12  
13  
14 Dated: \_\_\_\_\_

\_\_\_\_\_  
James Watson

15  
16  
17 Dated: May 6, 2009

  
\_\_\_\_\_  
J. Gordon Palmer, Jr.  
City Manager of the City of Stockton

18  
19  
20  
21 Dated: May 6, 2009

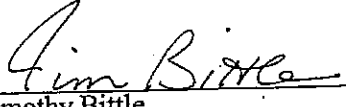
  
\_\_\_\_\_  
Richard E. Nosky, Jr.  
City Attorney of the City of Stockton

22  
23  
24 J:\Clients\154-[City of Stockton]\001 [HJTA v. City of Stockton]\Plead\Stipulation for Entry of Judgment.wpd

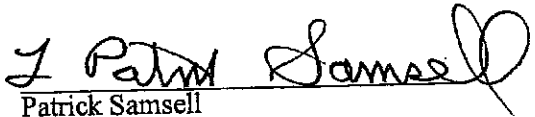
25  
26  
27  
28

1 8. If the Court approves this stipulation, the Plaintiffs Howard Jarvis Taxpayers  
2 Association, Patrick Samsell, and James Watson will dismiss the Defendant Adrian van Houten  
3 with prejudice by filing a request for dismissal in the form as attached hereto as Exhibit "B."  
4

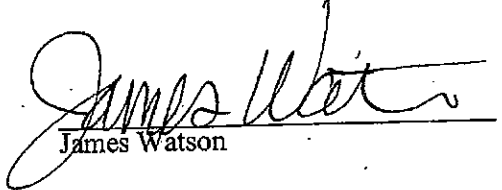
5  
6 Dated: June 22, 2009

  
\_\_\_\_\_  
Timothy Bittle  
Director of Legal Affairs for the  
Howard Jarvis Taxpayers Association


7  
8  
9  
10 Dated: June 27, 2009

  
\_\_\_\_\_  
Patrick Samsell

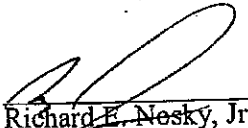
11  
12  
13  
14 Dated: 6-27-09

  
\_\_\_\_\_  
James Watson

15  
16  
17 Dated: May 6, 2009

  
\_\_\_\_\_  
J. Gordon Palmer, Jr.  
City Manager of the City of Stockton

18  
19  
20  
21 Dated: May 6, 2009

  
\_\_\_\_\_  
Richard E. Nesky, Jr.  
City Attorney of the City of Stockton

22  
23  
24 J:\Clients\154 [City of Stockton]\001 [HJTA v. City of Stockton]\Plead\Stipulation for Entry of Judgment.wpd

**EXHIBIT A**

1 Richard E. Nosky, Jr., SBN: 130726  
City Attorney  
2 CITY OF STOCKTON  
425 N. El Dorado Street  
3 Stockton, CA 95202  
Telephone: (209) 937-8333  
4 Facsimile: (209) 937-8898  
  
5 Benjamin P. Fay, SBN: 178856  
Rick W. Jarvis, SBN: 154479  
6 JARVIS, FAY, DOPORTO & GIBSON, LLP  
475 - 14<sup>th</sup> Street, Suite 260  
7 Oakland, CA 94612  
Telephone: (510) 238-1400  
8 Facsimile: (510) 238-1404  
  
9 Attorneys for Defendant  
CITY OF STOCKTON

11 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **IN AND FOR THE COUNTY OF SAN JOAQUIN**

14 HOWARD JARVIS TAXPAYERS ASSN.; ) CASE NO: CV 030686  
15 PATRICK SAMSELL; JAMES WATSON, )  
16 Plaintiffs, )  
17 v. ) **JUDGMENT PURSUANT TO STIPULATION**  
18 CITY OF STOCKTON; ADRIAN VAN )  
19 HOUTEN, in his official capacity as San )  
20 Joaquin County Auditor/Controller, )  
Defendants. ) Complaint Filed: October 10, 2006

21  
22 The parties, Plaintiff HOWARD JARVIS TAXPAYERS ASSOCIATION, Plaintiff  
23 PATRICK SAMSELL, Plaintiff JAMES WATSON, and Defendant CITY OF STOCKTON,  
24 having negotiated a settlement and having submitted a written stipulation for the entry of  
25 judgment pursuant to Code of Civil Procedure section 664.6, and good cause appearing therefor,  
26 the Court finds and IT IS HEREBY ORDERED as follows:  
27 1. The City of Stockton shall make all future transfers from its water, wastewater,  
28 and storm water utility funds to its general fund pursuant to the Review of General Fund Cost

1 Recovery from Utility Funds study by MuniFinancial, as revised on September 21, 2007 and as  
2 further revised not to classify state and federal grants for utility construction as general fund  
3 monies.

4 2. The City shall make annual transfers from the general fund to the water utility  
5 fund as provided in the payment schedule attached hereto as Exhibit "A."

6 3. The City shall make annual transfers from the general fund to the wastewater  
7 utility fund as provided in the payment schedule attached hereto as Exhibit "B."

8 4. The City shall, as part of its annual financial audit report, obtain a certification by  
9 the City's outside auditor that the City has made the transfers provided in Paragraphs 2 and 3,  
10 directly from the City's general fund to the enterprise funds in the amounts specified in the  
11 exhibits.

12 5. The City shall reimburse the Plaintiffs Howard Jarvis Taxpayers Association,  
13 Patrick Samsell, and James Watson for their costs and attorneys' fees incurred in this action by  
14 submitting a check in the amount of \$13,600, payable to the Howard Jarvis Taxpayers  
15 Foundation, to the Howard Jarvis Taxpayers Association within 15 days after the entry of  
16 judgment. Such payment shall fully satisfy all claims for costs or attorney's fees of any party.

17 This judgment shall be deemed the final decision of the Court in this action and in the  
18 event of a dispute shall not be construed in favor of or against any party by reason of that party's  
19 contribution to the drafting of the judgment or the stipulation by which it is entered. The Court  
20 acknowledges that neither party admits liability or fault and that the City specifically denies the  
21 allegations in the complaint and denies that Plaintiffs are entitled to any relief.

22 The Court retains jurisdiction over the parties at their request pursuant to Code of Civil  
23 Procedure section 664.6, in order to enforce full performance of the settlement.

24

25 DATED: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

26

27

28

J:\Clients\154 [City of Stockton]\001 [HJTA v. City of Stockton]\Plead\Stipulated Judgment (Final).wpd

**EXHIBIT A**



**REPAYMENT TO WATER FUND**  
**30 YEARS**

<u>FISCAL YEAR</u>	<u>BALANCE DUE AS OF JULY 1</u>	<u>INTEREST RATE</u>	<u>PAYMENT<sup>1</sup></u>	<u>INTEREST</u>	<u>PRINCIPAL</u>
2010-11	7,944,707.55	4.00%	441,772.33	0.00	441,772.33
2011-12	7,502,935.22	4.00%	441,772.33	300,117.41	141,654.92
2012-13	7,361,280.30	4.00%	441,772.33	294,451.21	147,321.12
2013-14	7,213,959.18	4.00%	441,772.33	288,558.37	153,213.96
2014-15	7,060,745.22	4.00%	441,772.33	282,429.81	159,342.52
2015-16	6,901,402.70	4.00%	441,772.33	276,056.11	165,716.22
2016-17	6,735,686.48	4.00%	441,772.33	269,427.46	172,344.87
2017-18	6,563,341.61	4.00%	441,772.33	262,533.66	179,238.67
2018-19	6,384,102.94	4.00%	441,772.33	255,364.12	186,408.21
2019-20	6,197,694.73	4.00%	441,772.33	247,907.79	193,864.54
2020-21	6,003,830.19	4.00%	441,772.33	240,153.21	201,619.12
2021-22	5,802,211.07	4.00%	441,772.33	232,088.44	209,683.89
2022-23	5,592,527.18	4.00%	441,772.33	223,701.09	218,071.24
2023-24	5,374,455.94	4.00%	441,772.33	214,978.24	226,794.09
2024-25	5,147,661.85	4.00%	441,772.33	205,906.47	235,865.86
2025-26	4,911,795.99	4.00%	441,772.33	196,471.84	245,300.49
2026-27	4,666,495.50	4.00%	441,772.33	186,659.82	255,112.51
2027-28	4,411,382.99	4.00%	441,772.33	176,455.32	265,317.01
2028-29	4,146,065.98	4.00%	441,772.33	165,842.64	275,929.69
2029-30	3,870,136.29	4.00%	441,772.33	154,805.45	286,966.88
2030-31	3,583,169.41	4.00%	441,772.33	143,326.78	298,445.55
2031-32	3,284,723.86	4.00%	441,772.33	131,388.95	310,383.38
2032-33	2,974,340.48	4.00%	441,772.33	118,973.62	322,798.71
2033-34	2,651,541.77	4.00%	441,772.33	106,061.67	335,710.66
2034-35	2,315,831.11	4.00%	441,772.33	92,633.24	349,139.09
2035-36	1,966,692.02	4.00%	441,772.33	78,667.68	363,104.65
2036-37	1,603,587.37	4.00%	441,772.33	64,143.49	377,628.84
2037-38	1,225,958.53	4.00%	441,772.33	49,038.34	392,733.99
2038-39	833,224.54	4.00%	441,772.33	33,328.98	408,443.35
2039-40	424,781.19	4.00%	441,772.33	16,991.14	424,781.19
			\$13,253,169.90	\$5,308,462.35	\$7,944,707.55

<sup>1</sup>Payments will be recorded as of July 1st.

**EXHIBIT B**

**REPAYMENT TO WASTEWATER FUND**  
**30 YEARS**

<u>FISCAL YEAR</u>	<u>BALANCE DUE AS OF JULY 1</u>	<u>INTEREST RATE</u>	<u>PAYMENT<sup>1</sup></u>	<u>INTEREST</u>	<u>PRINCIPAL</u>
2010-11	12,323,516.96	4.00%	685,259.81	0.00	685,259.81
2011-12	11,638,257.15	4.00%	685,259.81	465,530.29	219,729.52
2012-13	11,418,527.63	4.00%	685,259.81	456,741.11	228,518.70
2013-14	11,190,008.93	4.00%	685,259.81	447,600.36	237,659.45
2014-15	10,952,349.48	4.00%	685,259.81	438,093.98	247,165.83
2015-16	10,705,183.65	4.00%	685,259.81	428,207.35	257,052.46
2016-17	10,448,131.19	4.00%	685,259.81	417,925.25	267,334.56
2017-18	10,180,796.63	4.00%	685,259.81	407,231.87	278,027.94
2018-19	9,902,768.69	4.00%	685,259.81	396,110.75	289,149.06
2019-20	9,613,619.63	4.00%	685,259.81	384,544.79	300,715.02
2020-21	9,312,904.61	4.00%	685,259.81	372,516.18	312,743.63
2021-22	9,000,160.98	4.00%	685,259.81	360,006.44	325,253.37
2022-23	8,674,907.61	4.00%	685,259.81	346,996.30	338,263.51
2023-24	8,336,644.10	4.00%	685,259.81	333,465.76	351,794.05
2024-25	7,984,850.05	4.00%	685,259.81	319,394.00	365,865.81
2025-26	7,618,984.24	4.00%	685,259.81	304,759.37	380,500.44
2026-27	7,238,483.80	4.00%	685,259.81	289,539.35	395,720.46
2027-28	6,842,763.34	4.00%	685,259.81	273,710.53	411,549.28
2028-29	6,431,214.06	4.00%	685,259.81	257,248.56	428,011.25
2029-30	6,003,202.81	4.00%	685,259.81	240,128.11	445,131.70
2030-31	5,558,071.11	4.00%	685,259.81	222,322.84	462,936.97
2031-32	5,095,134.14	4.00%	685,259.81	203,805.37	481,454.44
2032-33	4,613,679.70	4.00%	685,259.81	184,547.19	500,712.62
2033-34	4,112,967.08	4.00%	685,259.81	164,518.68	520,741.13
2034-35	3,592,225.95	4.00%	685,259.81	143,689.04	541,570.77
2035-36	3,050,655.18	4.00%	685,259.81	122,026.21	563,233.60
2036-37	2,487,421.58	4.00%	685,259.81	99,496.86	585,762.95
2037-38	1,901,658.63	4.00%	685,259.81	76,066.35	609,193.46
2038-39	1,292,465.17	4.00%	685,259.81	51,698.61	633,561.20
2039-40	658,903.97	4.00%	685,259.81	26,355.84	658,903.97
			<b>\$20,557,794.30</b>	<b>\$8,234,277.34</b>	<b>\$12,323,516.96</b>

<sup>1</sup>Payments will be recorded as of July 1st.



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): <b>Timothy A. Bittle, SBN: 112300</b> Howard Jarvis Taxpayers Association 921 Eleventh Street, Suite 1201 Sacramento, CA 95814		TELEPHONE NO.: <b>(916) 444-9950</b>	FOR COURT USE ONLY
ATTORNEY FOR (Name): <b>Plaintiffs</b>			
Insert name of court and name of judicial district and branch court, if any: <b>SAN JOAQUIN COUNTY SUPERIOR COURT</b>			
PLAINTIFF/PETITIONER: <b>Howard Jarvis Taxpayers Association, et al.</b>			
DEFENDANT/RESPONDENT: <b>City of Stockton, et al.</b>			
<b>REQUEST FOR DISMISSAL</b> <input type="checkbox"/> Personal Injury, Property Damage, or Wrongful Death <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other <input type="checkbox"/> Family Law <input type="checkbox"/> Eminent Domain <input checked="" type="checkbox"/> Other (specify): <b>Fee Challenge</b>		CASE NUMBER: <b>CV 030686</b>	
<b>- A conformed copy will not be returned by the clerk unless a method of return is provided with the document. -</b>			

1. TO THE CLERK: Please dismiss this action as follows:

a. (1)  With prejudice (2)  Without prejudice

b. (1)  Complaint (2)  Petition

(3)  Cross-complaint filed by (name):

on (date):

(4)  Cross-complaint filed by (name):

on (date):

(5)  Entire action of all parties and all causes of action

(6)  Other (specify):\* **Adrian VanHouten, in his official capacity as San Joaquin County Auditor/Controller, ONLY**

Date:

**Timothy A. Bittle**

(TYPE OR PRINT NAME OF  ATTORNEY  PARTY WITHOUT ATTORNEY)

(SIGNATURE)

\*If dismissal requested is of specified parties only of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

Attorney or party without attorney for:

Plaintiff/Petitioner

Defendant/Respondent

Cross-complainant

2. TO THE CLERK: Consent to the above dismissal is hereby given.\*\*

Date:

(TYPE OR PRINT NAME OF  ATTORNEY  PARTY WITHOUT ATTORNEY)

(SIGNATURE)

\*\* If a cross-complaint or Response (Family Law) seeking affirmative relief is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581 (f) or (j).

Attorney or party without attorney for:

Plaintiff/Petitioner

Defendant/Respondent

Cross-complainant

(To be completed by clerk)

3.  Dismissal entered as requested on (date):

4.  Dismissal entered on (date):

as to only (name):

5.  Dismissal not entered as requested for the following reasons (specify):

6.  a. Attorney or party without attorney notified on (date):

b. Attorney or party without attorney not notified. Filing party failed to provide

a copy to conformed  means to return conformed copy

Date:

Clerk, by \_\_\_\_\_

Deputy