Resolution No. 04-0810

STOCKTON CITY COUNCIL

RESOLUTION APPROVING PAYMENT AGREEMENT WITH FARMINGTON FRESH FOR CFD 90-1 AIRPORT IN-LIEU FEE

WHEREAS, Farmington Fresh leases property consisting of approximately 27 acres (APN 177-260-14) at the Stockton Metropolitan Airport from San Joaquin County; and

WHEREAS, the total building square footage of Farmington Fresh consists of 2.495 acres of the approximately 27 acres leased from San Joaquin County; and

WHEREAS, Farmington Fresh agrees that its entire building square footage shall be subject to the CFD 90-1 Airport In-Lieu Fee pursuant to the South Stockton Community Facilities District 90-1 Administrative Guidelines; now, therefore,

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

1. That the Payment Agreement (CFD 90-1 Airport In-Lieu Fees) attached hereto as "Exhibit A" is hereby approved.

2. That the City Manager is hereby authorized and directed to execute said Payment Agreement.

PASSED, APPROVED, and ADOPTED

DEC 14 2004

GARY A. PODESTÁ
Mayor of the City of Stockton

ATTEST:

KATHERINE GONG MERTZ
City Clerk of the City of Stockton
PAYMENT AGREEMENT
CFD 90-1 AIRPORT "In-Lieu" FEES

BUSINESS OWNER: Farmington Packing Company
dba Farmington Fresh

ADDRESS: 7735 South State Route 99
West Frontage Road
Stockton, CA 95215

APN: 177-260-14

1. PARTIES. This Agreement is entered into on _________________, by
and between the CITY OF STOCKTON, a municipal corporation ("CITY"), and Farmington
Fresh ("OWNER"), a California corporation.

2. PURPOSE. The purpose of this Agreement is to set forth the terms and
conditions under which OWNER agrees to pay a CFD 90-1 Airport "In-Lieu" Fee pursuant
to the South Stockton Community Facilities District 90-1 Administrative Guidelines
("Guidelines") as adopted and amended by the City Council and in effect as of the date of
execution of this Agreement.

3. TERMS AND CONDITIONS.

a. OWNER leases property from San Joaquin County at the Stockton
Metropolitan Airport. Due to an expansion of OWNER's building after the adoption of the
"In-Lieu" Fee by the City Council on July 1, 1996 (Resolution No. 96-0333) and the County
Board of Supervisors on July 9, 1996 (Resolution B-96-811), OWNER agrees that their
entire building square footage shall be subject to the "In-Lieu" Fee. Since the total land
area leased from the County is not being used by OWNER, the building square footage is
being used to calculate the "In-Lieu" Fee. The total building square footage is 2.495 acres,
which is multiplied by the fee rate of $8,017.35 per acre. Therefore, OWNER agrees to
pay CITY the sum of Twenty Thousand-Three Dollars and Twenty-Nine Cents
($20,003.29). Ten Thousand Dollars ($10,000) is due within 30 days of approval of this
Agreement by the City Council and the remainder by June 14, 2005.

b. OWNER also agrees to pay the "In-Lieu" Fee on any future
expansions based upon the square footage of buildings added.

c. OWNER also agrees to annex the property to the City of Stockton if
and when OWNER acquires title to the property.
4. **CAPTIONS.** The captions of the sections and subsections of this Agreement are for convenience only and shall not be deemed to be relevant in resolving any question of interpretation or intent.

5. **SEVERABILITY.** The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

6. **ATTORNEY'S FEES.** OWNER agrees to pay all costs, including reasonable attorney's fees, in the event CITY initiates any legal action to enforce this Agreement.

7. **ENTIRE AGREEMENT.** This Agreement represents the entire integrated agreement between CITY and OWNER. This Agreement may be amended only by written instrument signed by CITY and OWNER.

8. **APPLICABLE LAW.** This Agreement shall be governed by the laws of the State of California.

9. **ASSIGNMENT PROHIBITED: SUCCESSORS IN INTEREST.** The rights, duties, and obligations of this Agreement shall not be assigned or delegated by OWNER without the prior written consent of CITY, in its sole discretion. Any assignment to which CITY has not consented shall be null and void and shall never take effect. Except as expressly provided in this paragraph 18, this Agreement shall inure to the benefit of and bind all successors in interest.

10. **AUTHORITY.** The undersigned hereby represent and warrant that they are authorized by the parties to execute this Agreement.

ATTEST: 

CITY OF STOCKTON, a municipal corporation

BY

KATHERINE GONG MEISSNER
City Clerk of the City of Stockton

BY

MARK E. LEWIS, ESQ.
City Manager

APPROVED AS TO FORM:

FARMINGTON FRESH, a California corporation

BY

RICHARD E. NOSKY, JR.
City Attorney

BY

GUY D. PETZOLD
Deputy City Attorney

BY

Print Name and Title