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BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, ADOPTING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF FRESNO AND FAGUNDES BROS. DAIRY, PURSUANT TO THE PROVISIONS OF SECTION 65864 ET SEQ. OF THE GOVERNMENT CODE AND ARTICLE 60 OF CHAPTER 15 OF THE FRESNO MUNICIPAL CODE.

WHEREAS, pursuant to the provisions of Government Code sections 65864, et seq., and Article 60 of Chapter 15 of the Fresno Municipal Code, the City of Fresno is authorized to enter into a development agreement with any person having a legal or equitable interest in real property for the development of the property; and

WHEREAS, Fagundes Dairy Bros. (Developer) has an interest in entering into a development agreement to develop the property commonly known as "Oasis" and Oasis' Vesting Tentative Tract Map Nos. 5456/UGM (T-5456), 5463/UGM (T-5463), 6183/UGM (T-6183), and 6184/UGM (T-6184), and collectively as the "Project", as more particularly described in Exhibit A to this ordinance which is attached hereto and incorporated herein by reference (Subject Property); and

1 of 7

Date Adopted:
Date Approved:
Effective Date:
City Attorney Approval: _____

Ordinance No. _____

WHEREAS, there currently exists a dispute between the Parties as to whether T-5463 and T-5456 and the rights it bestowed upon Developer under the California Subdivision Map Act have expired or not (the Dispute); and

WHEREAS, the Parties share an interest in permanently resolving the Dispute through a development agreement which allows for the continued application of the laws, ordinances, and standards vested under T-5456 and T-5463, while also allowing the City to impose certain new City Development Fees and new Required Exactions; and

WHEREAS, a copy of the Development Agreement agreed upon by the parties is attached hereto as Exhibit B and incorporated herein; and

WHEREAS, the City, as Lead Agency, prepared an Addendum to Environmental Assessment Nos. R-05-43/T-5456, R-05-45/T-5463/C-05-140, and T-6183/T-6184, pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15164, which states that a lead agency shall prepare an addendum to an adopted negative declaration, if only minor technical changes or additions are necessary but none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred; and

WHEREAS, the Development Agreement does not propose revisions to the project beyond what was analyzed in the Environmental Assessment Nos. R-05-43/T-5456, R-05-45/T-5463/C-05-140, and T-6183/T-6184, and only a minor revision to the project is necessary to include a reference to this Development; and

WHEREAS, the preparation of an Addendum to Environmental Assessment Nos. R-05-43/T-5456, R-05-45/T-5463/C-05-140, and T-6183/T-6184, pursuant to CEQA Guidelines Section 15164 is appropriate given that none of the conditions described in Section 15162 of the

CEQA Guidelines calling for preparation of a subsequent EIR or negative declaration have occurred; and new information added is only for the purposes of providing a reference to the Development Agreement, which is a minor addition, in accordance with Section 15164 of the CEQA Guidelines. There is no substantial evidence in the record that adoption of the Development Agreement may have additional significant effects on the environment that were not identified in Environmental Assessment Nos. R-05-43/T-5456, R-05-45/T-5463/C-05-140, and T-6183/T-6184, and that all applicable mitigation measures of the prior Environmental Assessments have been applied to the project. In addition, pursuant to Public Resources Code, Section 21157.6(b)(1), Council finds that no substantial changes have occurred with respect to the circumstances under which the prior Environmental Assessments were adopted; and, that no new information, which was not known and could not have been known at the time that the prior Environmental Assessments, have become available; and

WHEREAS, the Public Works Department and Department of Public Utilities, in consideration of the Proposed Project, have determined the necessary exactions and improvements necessary for the Project; and

WHEREAS, the Planning Commission of the City of Fresno held a public hearing on the 20th day of October, 2021 to consider the Development Agreement, and recommended approval to the Council of the City of Fresno through Resolution No. 13726; and

WHEREAS, the Council of the City of Fresno, on the 2nd day of December, 2021 received the recommendations of the Planning Commission and City staff as specifically detailed in the Report to the City Council for this Ordinance approving the Development Agreement by and between the City of Fresno and the Developer dated _____.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1: The Council finds in its independent judgment, based upon its review of the entire administrative record, including but not limited to the Staff reports, the oral and documentary evidence submitted to Council and the Planning Commission, that the Development Agreement does not propose revisions to the Project beyond what was analyzed in Environmental Assessment Nos. R-05-43/T-5456, R-05-45/T-5463/C-05-140, and T-6183/T-6184; that only minor additions are necessary to include a reference to the Development Agreement; that that none of the circumstances set forth in CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred; and that an Addendum to Environmental Assessment Nos. R-05-43/T-5456, R-05-45/T-5463/C-05-140, and T-6183/T-6184 prepared pursuant to CEQA Guidelines Section 15164 is appropriate.

SECTION 2. Council finds that the Project is a development for which the Development Agreement is appropriate pursuant to the evidence and findings provided in the Staff Report to Council dated December 2, 2021.

SECTION 3. Council finds, in accordance with Section 65867.5 of the Government Code and Fresno Municipal Code Section 15-6006, and pursuant to the evidence and findings provided in the Staff Report to Council dated December 2, 2021 that:

(a) The Development Agreement is being adopted pursuant to this Ordinance and is subject to referendum.

(b) The provisions of the Development Agreement are consistent with the Fresno General Plan. Further, the Development Agreement is consistent with the purpose of the Development Code to promote growth in an orderly and sustainable

manner, support infill development, and to promote and protect the public health, safety, peace, comfort, and general welfare. Approval of the Development Agreement will provide certainty to encourage investment in the comprehensive development and planning of T-5456, T-5463, T-6183, and T-6184; (2) secure orderly development and progressive fiscal benefits for public services, improvements and facilities planning for T-5456, T-5463, T-6183, and T-6184 and neighboring areas; and (3) fulfill and implement adopted City plans, goals, policies, and objectives.

(c) The Development Agreement will provide substantial public benefit by providing an additional park and roadway landscaping beyond that originally provided for in T-5456, T-5463, T-6183, and T-6184; providing infrastructure improvements, meeting the goals of the Fresno General Plan to create "Complete Neighborhoods" that will reduce vehicle trips and serve all segments of the City, and will provide jobs and economic development.

SECTION 4. Council finds that the Development Agreement complies with the Fresno Municipal Code and other applicable ordinances, standards, policies, and regulations of the City of Fresno pursuant to the evidence and findings provided in the Staff Report to Council dated December 2, 2021.

SECTION 5. Council finds that the Development Agreement furthers the public health, safety and welfare and will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the Subject Property, pursuant to the evidence and findings provided in the Staff Report to the City Council dated December 2, 2021.

SECTION 6. The Council finds that the construction of public facilities required in conjunction with the development is adequate to serve the development pursuant to the findings provided in the Staff Report to the City Council dated December 2, 2021.

SECTION 7. Council finds that the Development Agreement provides for clear and substantial public benefit to the City of Fresno and residents pursuant to the evidence and findings provided in the Staff Report to Council dated December 2, 2021.

SECTION 8. Council hereby adopts and approves the Development by and between the City of Fresno and Fagundes Bros. Dairy in substantially the same form as that presented to Council in the Staff Report to Council dated December 2, 2021 and authorizes the City Manager and/or his or her designee to finalize and execute the proposed Development Agreement attached hereto as Exhibit B, subject to City Attorney's Office approval as to form, on behalf of the City of Fresno.

SECTION 9. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its passage.

CLERK'S CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF FRESNO)
CITY OF FRESNO)

I, TODD STERMER, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____ 2021.

AYES:
NOES:
ABSENT:
ABSTAIN:

BRIANA PARRA
City Clerk

By _____
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By _____
Kristi Costa Date
Deputy City Attorney

Attachments: Exhibit A – Description of Subject Property
Exhibit B – Development Agreement