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City Clerk, Fresno, California
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BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, ADOPTING A DISPOSITION AGREEMENT AND DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF FRESNO AND DARLING INGREDIENTS, INC., A DELAWARE CORPORATION, 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, Darling Ingredients Inc., a Delaware Corporation (Darling) has an interest in entering into a development agreement to develop the property generally described in Exhibit A to this ordinance which is attached hereto and incorporated herein by reference (Subject Property); and

WHEREAS, Plan Amendment Application No. P18-03582, Rezone Application No. P18-03582, and Conditional Use Permit Application No. P18-03583 have been filed for that

Date Adopted:

Date Approved:

Effective Date:

City Attorney Approval: 

Ordinance No. _____

certain real property in the City of Fresno, County of Fresno, State of California, for the Subject Property; and

WHEREAS, approval of a disposition agreement and development agreement as requested by Darling will allow future development to occur on the Subject Property in accordance with Plan Amendment Application No. P18-03582, Rezone Application No. P18-03582, Conditional Use Permit Application No. P18-03583 and the Subsequent Development Approvals contemplated by the Agreement (The Darling Project); and

WHEREAS, City staff and Darling negotiated a disposition agreement and development agreement that is titled "Disposition Agreement and Development Agreement By and Between the City of Fresno and Darling Ingredients Inc." (DADA) that applies only to the Darling Project; and

WHEREAS, the City, as Lead Agency, has prepared Final Environmental Impact Report SCH No. 2018111043 dated July 2019, which evaluated the environmental impacts associated with the Darling Project, which includes the aforementioned Plan Amendment, Rezone and Conditional Use Permit, the subject DADA and associated public improvement requirements related to some or all phases of the Darling Project; and

WHEREAS, the Environmental Impact Report prepared for Final EIR SCH No. 2018111043 and dated July 2019 was drafted in a manner such that mitigation measures have been applied to the project necessary to assure that the project will not cause significant adverse cumulative impacts, growth inducing impacts and irreversible significant effects beyond those identified by Final EIR SCH No. 2018111043; 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 Darling Project; and

WHEREAS, the Planning Commission of the City of Fresno held a public hearing on the 7th day of August 2019 to consider the associated Plan Amendment Application, Rezone Application, Conditional Use Permit Application, and DADA, and recommended approval to the Council of the City of Fresno through Resolution Nos. _____, _____, _____, and _____; and

WHEREAS, The Council of the City of Fresno, on the 15th day of August 2019 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 DADA by and between the City of Fresno and the Developer dated July 25, 2019.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1: The Council in a prior action taken on August 15, 2019, made all of the necessary findings pursuant to CEQA and the CEQA Guidelines to certify the environmental document, related mitigation measures, Findings of Fact and Statement of Overriding Consideration for Final EIR SCH No. 2018111043 dated July 2019, for purposes of the Darling Project pursuant to the requirements of the CEQA Guidelines.

SECTION 2. Council, in a prior action taken on August 15, 2019, approved Plan Amendment Application No. P18-03582 and Rezone Application No. P18-03582, for the Darling Project.

SECTION 3. Council finds in its independent judgment, based upon its review of Final EIR SCH No. 2018111043 dated July 2019, and 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 proposed DADA was part of the project assessed

under Final EIR SCH No. 2018111043 dated July 2019.

SECTION 4. Council finds that the Darling Project is a development for which the DADA is appropriate pursuant to the evidence and findings provided in the Staff Report to Council dated August 15, 2019.

SECTION 5. 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 August 15, 2019 that:

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

(b) The provisions of the DADA are consistent with the Fresno General Plan and are consistent with Plan Amendment Application No. P18-03582, which was processed concurrently with the DADA. Further, the DADA 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 DADA will allow the Darling Rendering Facility to relocate its operations to an area not within the immediate proximity to residential neighborhoods.

(c) The DADA will provide substantial public benefit by relocating a heavy industrial use currently in close proximity to dense residential uses to an area away from residential uses. This will provide a cleaner and healthier environment to residential uses adjacent to and surrounding the existing rendering facility.

SECTION 6. Council finds that the DADA 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 August 15, 2019.

SECTION 7. Council finds that the DADA 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 August 15, 2019.

SECTION 8. 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 July 25, 2019.

SECTION 9. Council finds that the DADA 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 August 15, 2019.

SECTION 10. Council hereby adopts and approves the DADA titled "Disposition Agreement and Development Agreement By and Between the City of Fresno and Darling Ingredients Inc." in substantially the same form as that presented to Council in the Staff Report to Council dated August 15, 2019, and authorizes the City Manager and/or designee to finalize and execute the proposed DADA, subject to City Attorney's Office approval as to form, on behalf of the City of Fresno.

SECTION 11. 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, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing Ordinance was adopted by the Council of the City of Fresno, California, at a regular meeting held on the _____ of ____ 2019 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor Approval: _____, 2019
Mayor Approval/No Return: _____, 2019
Mayor Veto: _____, 2019
Council Override Vote: _____, 2019

YVONNE SPENCE, MMC CRM
City Clerk

By _____

Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By _____
Talia Kolluri Date
Supervising Deputy City Attorney

Attachment: Exhibit A