

Recording Requested by:
City Clerk, Fresno, California
No Fee-Govt. Code 6103

Return to City Clerk, Fresno

Space above this line reserved for Fresno County Recorder's Office

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, ADOPTING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF FRESNO AND HIGH AND MIGHTY FARMS, INC., A CALIFORNIA CORPORATION; COURTHOUSE CALIFORNIA, LLC., AN ARIZONA LIMITED LIABILITY COMPANY; AND NANCY M. DUNLAP, TRUSTEE OF THE RUTH MARTORI NON-QTIP MARITAL TRUST, DATED JULY 26, 1994, 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, High and Mighty Farms, Inc., Courthouse California, LLC., and Nancy M. Dunlap, Trustee of the Ruth Martori Non-QTIP Marital Trust dated July 26, 1994 (Developer) 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,

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: MRO

Ordinance No. _____

Ordinance Adopting a Development Agreement

By and Between the City of Fresno and High and Might Farms, Inc., Courthouse California, LLC., and Nancy M. Dunlap, Trustee of the Ruth Martori Non-QTIP Marital Trust.

Page 2

WHEREAS, Plan Amendment Application No. A-16-014, Rezone Application No. R-16-013, Vesting Tentative Parcel Map No. 2016-05 and Vesting Tentative Tract Map No. 6165/UGM have been filed for all that certain real property in the City of Fresno, County of Fresno, State of California, for the Subject Property; and,

WHEREAS, approval of a development agreement as requested by the Developer will allow future development to occur in multiple phases on the 78 acre Subject Property in accordance with Plan Amendment Application No. A-16-014, Rezone Application No. R-16-013, Vesting Tentative Parcel Map No. 2016-05 and Vesting Tentative Tract Map No. 6165/UGM (The Oaks Development Project); and,

WHEREAS, City staff and the Developer negotiated a development agreement (inclusive of Exhibits A to G) that is titled "Development Agreement By and Between the City of Fresno and High and Mighty Farms, Inc., Courthouse California, LLC., and Nancy M. Dunlap, Trustee of the Ruth Martori Non-QTIP Marital Trust dated July 26, 1994" (Development Agreement) that applies only to all phases of the Oaks Development Project; and,

WHEREAS, the City, as Lead Agency, has prepared a Mitigated Negative for purposes of Environmental Assessment No. A-16-014/R-16-013/T-6165 dated October 21, 2016, which evaluated the environmental impacts associated with the Oaks Development Project, which includes the aforementioned plan amendment, rezone, vesting tentative parcel and tract maps, and the subject Development Agreement as well as associated public improvement requirements related to some or all phases of the Oaks Development Project; and,

WHEREAS, the Mitigated Negative Declaration prepared for Environmental Assessment No. A-16-014/R-16-013/T-6165 and dated October 21, 2016 was drafted in a manner such that all applicable mitigation measures of Fresno General Plan Master Environmental Impact Report

Ordinance Adopting a Development Agreement

By and Between the City of Fresno and High and Might Farms, Inc., Courthouse California, LLC., and Nancy M. Dunlap, Trustee of the Ruth Martori Non-QTIP Marital Trust.

Page 3

(MEIR No. 2012111015) have been applied to the project, together with project specific mitigation measures, as necessary to assure that the project will not cause significant adverse cumulative impacts, growth inducing impacts and irreversible significant effects beyond those identified by SCH No. 2012111015 as provided by CEQA Section 15178(a); 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 Oaks Development Project; and,

WHEREAS, the Planning Commission of the City of Fresno held a public hearing on the 19th day of April 2017 to consider the associated Plan Amendment Application, Rezone Application, Vesting Tentative Parcel Map, and Vesting Tentative Tract Map, during which the Commission considered, and recommended to the Council of the City of Fresno through Resolution Nos. 13445, 13446, and 13447 approval; and,

WHEREAS, The Council of the City of Fresno, on the 25th day of May 2017 received the recommendations of the Planning Commission and City staff as specifically detailed in the Report to the City Council for the introduction and adoption of this Ordinance approving the Development Agreement by and between the City of Fresno and the Developer dated May 25, 2017.

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

SECTION 1: The Council in a prior action taken on May 25, 2017, made all of the necessary findings pursuant to CEQA and the CEQA Guidelines to adopt the Mitigated Negative Declaration prepared for Environmental Assessment No. A-16-014/R-16-013/T-6165 and dated October 21, 2016, for purposes of the Oaks Development Project.

Ordinance Adopting a Development Agreement

By and Between the City of Fresno and High and Might Farms, Inc., Courthouse California, LLC., and Nancy M. Dunlap, Trustee of the Ruth Martori Non-QTIP Marital Trust.

Page 4

SECTION 2. Council, in a prior action taken on May 25, 2017, approved Plan Amendment Application No. A-16-014, Rezone Application No. R-16-013, and Vesting Tentative Tract Map No. 6165/UGM for the Oaks Development Project.

SECTION 3. Council finds in its independent judgment, based upon its review of the Mitigated Negative Declaration prepared for Environmental Assessment No. A-16-014/R-16-013/T-6165 and dated October 21, 2016, 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 Development Agreement was part of the project assessed under Environmental Assessment No. A-16-014/R-16-013/T-6165 and dated October 21, 2016.

SECTION 4. Council finds that the Oaks Development 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 May 25, 2017.

SECTION 5. Council finds, in accordance with Section 65867.5 of the Government Code, and pursuant to the evidence and findings provided in the Staff Report to Council dated December 2, 2010, that:

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

(b) The Development Agreement is consistent with the Fresno General Plan and the Roosevelt Community Plan.

(c) Based upon written verification provided by the City of Fresno, Department of Public Utilities as well as the adopted City of Fresno Urban Water Management Plan,

Ordinance Adopting a Development Agreement

By and Between the City of Fresno and High and Might Farms, Inc., Courthouse California, LLC., and Nancy M. Dunlap, Trustee of the Ruth Martori Non-QTIP Marital Trust.

Page 5

that there is sufficient water supply, as defined by Section 66473.7, to serve the Proposed Project and that any tentative map prepared for the Subject Property, as defined in Section 66473.7 of the California Government Code will comply with the provisions of said section.

SECTION 6. 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 May 25, 2017.

SECTION 7. 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 May 25, 2017.

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 May 25, 2017.

SECTION 9. 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 May 25, 2017.

SECTION 10. Council hereby adopts and approves the Development Agreement titled "Development Agreement By and Between the City of Fresno and High and Mighty Farms, Inc., Courthouse California, LLC., and Nancy M. Dunlap, Trustee of the Ruth Martori Non-QTIP

Ordinance Adopting a Development Agreement

By and Between the City of Fresno and High and Might Farms, Inc., Courthouse California, LLC., and Nancy M. Dunlap, Trustee of the Ruth Martori Non-QTIP Marital Trust.

Page 6

Marital Trust dated July 26, 1994,” in substantially the same form as that presented to Council in the Staff Report to Council dated May 25, 2017, and authorizes the City Manager and/or his or her designee to finalize and execute the Proposed Development Agreement, subject to City Attorney’s Office approval as to form, on behalf of the City of Fresno.

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

///

///

Ordinance Adopting a Development Agreement

By and Between the City of Fresno and High and Might Farms, Inc., Courthouse California, LLC., and Nancy M. Dunlap, Trustee of the Ruth Martori Non-QTIP Marital Trust.

Page 7

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 25th day of May 2017 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor Approval: _____, 2017
Mayor Approval/No Return: _____, 2017
Mayor Veto: _____, 2017
Council Override Vote: _____, 2017

YVONNE SPENCE, CMC
City Clerk

By _____
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By _____
Mary Raterman-Doidge Date
Deputy City Attorney

Attachments: Exhibit A