

# Mayor and Council Communication

**DATE:** 10/17/23

**M&C FILE NUMBER:** M&C 23-0859

**LOG NAME:** 17YAYAFOODSTEZ

## **SUBJECT**

(CD 8) Authorize the Execution of a Consent to Assignment of City of Secretary Contract No. 57440, an Economic Development Program Agreement, with Oatly US Operations & Supply, Inc. to Ya Ya Foods USA, LLC and Adopt Resolution Nominating Ya Ya Foods USA LLC's Facility at 7550 Oak Grove Road as an Enterprise Project Pursuant to the Texas Enterprise Zone Act, Chapter 2303 of the Texas Government Code

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## **RECOMMENDATION:**

It is recommended that the City Council:

1. Authorize the execution of a Consent to Assignment of City of Secretary Contract No. 57440, an Economic Development Program Agreement, with Oatly US Operations & Supply, Inc. to Ya Ya Foods USA, LLC; and
  2. Adopt the attached resolution nominating Ya Ya Foods USA, LLC's facility at 7550 Oak Grove Road as an enterprise project pursuant to the Texas Enterprise Zone Act, Chapter 2303 of the Texas Government Code.
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## **DISCUSSION:**

The City of Fort Worth (City) entered into an Economic Development Program Agreement (EDPA) with Oatly US Operations & Supply Inc. (Oatly) (CSO 57440) as authorized by the City Council on January 26, 2021 (M&C 21-0071). As part of the EDPA, Oatly agreed to several commitments, including spending a minimum \$36 million in total construction costs by December 31, 2024 for a new facility located at 7550 Oak Grove Road, locating business personal property at the project site that is appraised at a minimum of \$48 million in taxable value, and providing for a minimum 50 full-time jobs with an average annual salary of \$46,325. In return, the City agreed to provide up to five annual Economic Development Program grants (Grants) equal to up to 40 percent of the City's incremental ad valorem tax revenue from the project site.

Since that time, Oatly has entered into a service agreement with Ya Ya Foods USA LLC (Ya Ya) who will be responsible for completing all remaining project work, operating the facility, and who will produce the alternative dairy products on Oatly's behalf. Oatly, therefore, wishes to assign the EDPA to Ya Ya, which would bind Ya Ya to all existing company commitments under the EDPA.

Separately, the City nominated Oatly as an enterprise project under the Texas Enterprise Zone Program. Nominations under that program cannot be assigned. Therefore, Ya Ya Foods is seeking a nomination at this time in order to be eligible for benefits under the program.

City has previously passed Ordinance No. 15733 electing to participate in the Texas Enterprise Zone Program. On May 12, 2015 the City Council adopted Ordinance No. 21743-05-2015, amending Ordinance No. 15733 by adding additional potential local incentives that could be made available to qualified businesses under the Texas Enterprise Zone Program. The Office of the Governor Economic Development and Tourism through the Economic Development Bank will consider Ya Ya as an enterprise project pursuant to a nomination and an application made by the City.

The Texas Enterprise Zone Program is an economic development tool for local communities to partner with the State of Texas to promote job creation and capital investment in economically distressed areas of the State. An enterprise project is defined as a business that is nominated by a municipality or county and then approved for state benefits. Designated projects are eligible to apply for state sales and use tax refunds on qualified expenditures. The level and amount of refund is related to the capital investment and jobs created at the qualified business site.

If designated as an enterprise project by the State of Texas, Ya Ya commits to hiring thirty-five percent (35%) economically disadvantaged persons or enterprise zone residents for its new permanent jobs at its Fort Worth facility during its enterprise project designation. Ya Ya expects to retain all full-time jobs for benefit under the Enterprise Zone Program.

The single project designation allows for a state sales and use tax refund on qualified expenditures of \$2,500.00 per job, for up to 500 jobs, with a maximum benefit of \$1.25 million over a five-year period. Under the Texas Enterprise Zone Act, at least thirty-five percent of the business' new or retained employees will be residents of an enterprise zone, economically disadvantaged individuals or veterans. In addition, the jobs will be provided through the end of the designation period or at least three years after the date on which a state benefit is received, whichever is later.

The project is located in Council District 8.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

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## **FISCAL INFORMATION / CERTIFICATION:**

The Director of Finance certifies that approval of this recommendation will have no material effect on City funds.

**Submitted for City Manager's Office by:** William Johnson 5806

**Originating Business Unit Head:** Robert Sturns 2663

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