

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF THE CITY OF FORT WORTH (1986), AS AMENDED, BY THE AMENDMENT OF CHAPTER 12.5, "ENVIRONMENTAL PROTECTION AND COMPLIANCE," ARTICLE IV "GROUNDWATER AND SURFACE WATER QUALITY," BY AMENDING APPENDIX "A" "MUNICIPAL SETTING DESIGNATION SITES IN FORT WORTH," BY THE ADDITION OF SECTION 24 DESIGNATING CFW-MSD-0029, PROVIDING FOR THE PROHIBITION OF THE USE OF GROUNDWATER FOR POTABLE AND IRRIGATION PURPOSES IN CFW-MSD-0029; PROVIDING THAT THIS ORDINANCE IS CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A FINE OF UP TO \$2,000.00 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER OF THE CITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Hickman Family Limited Partnership (Applicant) has filed an application for support of a resolution seeking a Municipal Setting Designation (MSD) for the site known as an undeveloped property near Interstate Highway 35 and West Risinger Road, Fort Worth, Texas, the metes and bounds description being attached hereto as Exhibit "A" (Site); and

WHEREAS, notice to all interested parties has been provided in accordance with all applicable law and a public hearing has been held on the matter on November 20, 2020; and

WHEREAS, upon passage of a supporting resolution by the City Council, Applicant intends to file a separate application with the Executive Director of the Texas Commission on Environmental Quality (TCEQ) for certification of an MSD for the Site pursuant to Texas Health and Safety Code, Chapter 361, Subchapter W; and

WHEREAS, Applicant has continuing obligations to satisfy applicable statutory and regulatory provisions concerning groundwater contamination investigation and response actions at the Site; and

WHEREAS, the City Council of the City of Fort Worth is of the opinion that it is in the best interest of the public to support Applicant's application to the Texas Commission on Environmental Quality for a Municipal Setting Designation for the Site; and

WHEREAS, in order for the TCEQ to certify the Site the city must prohibit the potable use of groundwater from beneath the Site; and

WHEREAS, a public drinking water supply system exists that supplies or is capable of supplying drinking water to the Site, and property within one-half mile of the Site; and

WHEREAS, where public drinking water is available, the potable use of groundwater in designated areas should be prohibited to protect public health and welfare when the quality of the groundwater presents an actual or potential threat to human health;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS, AS FOLLOWS:

SECTION 1.

Chapter 12.5 "Environmental Protection and Compliance," Article IV, "Groundwater and Surface Water Quality," Appendix A, "Municipal Setting Designation Sites in Fort Worth," of the Code of the City of Fort Worth (1986) as amended, is hereby amended by the addition of Section 24 to read as follows:

APPENDIX A – MUNICIPAL SETTING DESIGNATION SITES IN FORT WORTH

24. CFW-MSD-0029

- (a) CFW-MSD-0029 is defined and designated as follows:
Being a tract of land situated in the City of Fort Worth, Tarrant County, Texas and being more particularly described by metes and bounds description (Exhibit A) and map of CFW-MSD-00029 (Exhibit B).
- (b) The designated groundwater beneath CFW-MSD-0029 is a shallow, perched aquifer from depths of approximately fourteen (14) feet to twenty (20) feet below the ground surface. The affected shallow groundwater is underlain by a confining layer of approximately 200 to 450 feet in thickness and is underlain by confining limestone formations that serve as a regional aquitard that prevents the vertical migrations of the chemical of concern to underlying potable aquifers. The chemical of concern identified in groundwater beneath the site exceeding applicable Tier 1 Texas Risk Reduction Program (TRRP) Residential Protection Concentration Levels (PCLs) is trichloroethene.
- (c) The use of the designated groundwater in CFW-MSD-0029 for potable and irrigation purposes is hereby prohibited. This prohibition is necessary because the contaminant concentrations exceed potable water standards.
- (d) The City will provide advance written notice to the Texas Commission on Environmental Quality, as much as is practicable, prior to enacting an ordinance repealing or amending this section.

SECTION 2.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (1986), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 3.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any

court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 4.

Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than two thousand dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 5.

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of the ordinances amended in Section 1, which have accrued at the time of the effective date of this ordinance and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 6.

The City Secretary of the City of Fort Worth, Texas is hereby directed to publish the caption summarizing the purpose of this ordinance and the penalty for violating this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by V.T.C.A. Local Government Code Subsection 52.013

SECTION 7.

This ordinance shall be in full force and effect after its passage and publication as required by law,
and it is so ordained.

APPROVED AS TO FORM AND LEGALITY:
SARAH FULLENWIDER, CITY ATTORNEY

By CHRISTA REYNOLDS
SENIOR ASSISTANT CITY ATTORNEY

ADOPTED: _____

EFFECTIVE: _____

Exhibit A

UNDEVELOPED LAND NEAR INTERSTATE HIGHWAY 35 WEST AND WEST RISINGER ROAD, FORT WORTH, TEXAS

LEGAL DESCRIPTION PART OF THE GEORGE HAMILTON SURVEY, ABSTRACT 751 AND JAMES J. SCOTT SURVEY, ABSTRACT 1449

BEING a 6.6074 acre (287,819 square foot) tract of land situated in the George Hamilton Survey, Abstract No. 751 and the James J. Scott Survey, Abstract No. 1449, City of Fort Worth, Tarrant County, Texas; said tract being part of that tract of land described in Correction Warranty Deed to Hickman Family Limited Partnership recorded in Instrument No. D206394892 of the Official Public Records of Tarrant County, Texas; said tract being more particularly described as follows:

BEGINNING at a 5/8-inch iron rod with "KHA" cap set for corner in the west line of Lot 3, Block 1, Southland Business Park Addition, an addition to the City of Fort Worth according to the plat recorded in Instrument No. D220093349 of said Official Public Records;

THENCE South 0°26'51" East, along the said west line of Lot 3, a distance of 494.01 feet to a 5/8-inch iron rod with "KHA" cap set for corner;

THENCE North 90°00'00" West, departing the said west line of Lot 3, a distance of 444.62 feet to a point for corner in the east line of that tract of land described in Special Warranty Deed to Barnett Gathering, L.P. recorded in Instrument No. D206080398 of said Official Public Records;

THENCE North 0°39'16" West, along the said east line of the Barnett Gathering, L.P. tract, a distance of 107.90 feet to a 1/2-inch iron rod found for the northeast corner of said Barnett Gathering L.P. tract;

THENCE South 89°28'24" West, along the north line of said Barnett Gathering, L.P. tract, a distance of 177.28 feet to a point for corner;

THENCE North 0°00'00" East, departing the said north line of the Barnett Gathering, L.P. tract, a distance of 387.73 feet to a point for corner;

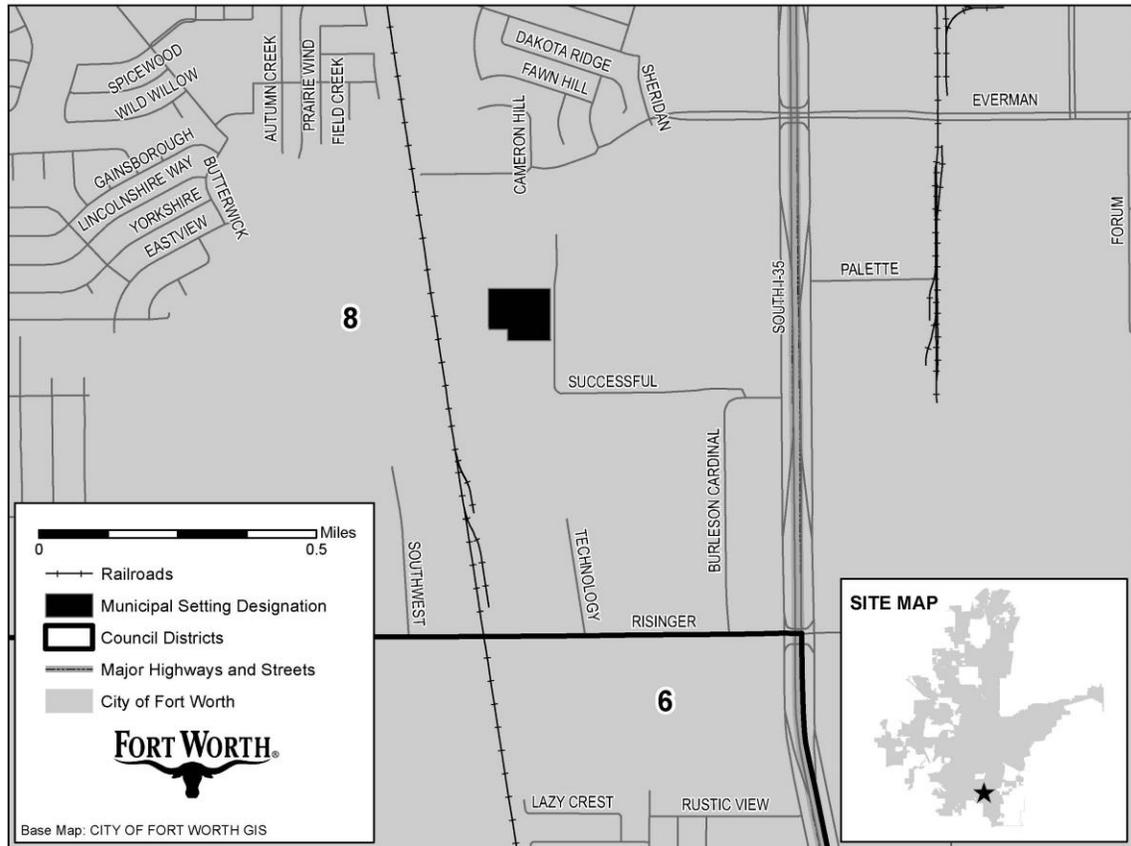
THENCE North 90°00'00" East, a distance of 619.27 feet to the **POINT OF BEGINNING** and containing 6.6074 acres or 287,819 square feet of land, more or less.

Exhibit B

UNDEVELOPED LAND NEAR INTERSTATE HIGHWAY 35 WEST AND WEST RISINGER ROAD, FORT WORTH, TEXAS

6.6074 Acre Tract

IH-35 West & West Risinger Road Former Gravel Pit Area MUNICIPAL SETTING DESIGNATION



Amy LaMar | October 2020 | Map Source: X:\07_ENVIRONMENTAL\GIS\MC_Reports