

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE CODE OF THE CITY OF FORT WORTH (2015), 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-0034, PROVIDING FOR THE PROHIBITION OF THE USE OF GROUNDWATER FOR POTABLE AND IRRIGATION PURPOSES IN CFW-MSD-0034; 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 Kelli Court, LLC (Applicant) has filed an application for support of a resolution seeking a Municipal Setting Designation (MSD) for the site known as Fort Worth Gear & Axle property located at 3409, 3412, 3413, and 3417 Kelli Court, 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 June 11, 2024; 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 (2015) 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-0034**

- (a) CFW-MSD-0034 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-0034 (Exhibit B).
- (b) The designated groundwater beneath CFW-MSD-0034 is shallow, perched, discontinuous groundwater that occurs at depths of approximately seven (7) to nine (9) feet below the ground surface. The affected shallow groundwater is underlain by the Fort Worth Limestone and Duck Creek Formation undivided. The Fort Worth Limestone consists of limestone and clay with a thickness of 25-35 feet. The Duck Creek Formation consists of aphanitic limestone with pyrite nodules with a thickness of 30-100 feet that serves as a regional aquitard preventing vertical migrations of the chemical of concern to underlying potable aquifers. The affected shallow groundwater is not a designated, recognized major or minor aquifer. The chemicals of concern detected in the designated groundwater chlorinated volatile organic compounds. The chemical of concern impacts are attributed to historical automotive parts manufacturing and service activities on the subject property.
- (c) The use of the designated groundwater in CFW-MSD-0034 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 (2015), 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:  
LEEANN GUZMAN, CITY ATTORNEY

\_\_\_\_\_  
By MATT MURRAY  
ASSISTANT CITY ATTORNEY

ADOPTED:\_\_\_\_\_

EFFECTIVE:\_\_\_\_\_

## **EXHIBIT A**

### **SITE**

FORT WORTH GEAR & AXLE PROPERTY  
3409, 3412, 3413, AND 3417 KELLI COURT  
FORT WORTH, TEXAS

#### **LOT #3**

Legal Description for Lot 3, Block 1-R, Diamond Heights Industrial Addition, an addition to the City of Fort Worth, Tarrant County, Texas, according to the plat recorded in Volume 388-42, Page 59-A, Plat Records, Tarrant County, Texas.

**BEGINNING** at a 1/2 inch capped iron rod inscribed "Barron Stark" set at the northeast corner of Lot 1, Block 1-R Diamond Heights Industrial Addition as recorded in Volume 388-42, Page 59 Plat Records, Tarrant County, Texas.

**THENCE** SOUTH 52°09'44" WEST, a distance of 309.50 to a 1/2 inch capped iron rod inscribed "Barron Stark" set at the northwest corner of Lot 2, Block 1-R Diamond Heights Industrial Addition as recorded in Volume 388-42, Page 59 Plat Records, Tarrant County, Texas;

**THENCE** NORTH 00°59'16" WEST, a distance of 251.50 feet to a 1/2 inch capped iron rod inscribed "Barron Stark" set at the southwest corner of Lot 4, Block 1-R Diamond Heights Industrial Addition as recorded in Volume 388-42, Page 59 Plat Records, Tarrant County, Texas;

**THENCE** NORTH 83°31'44" EAST, a distance of 211.57 feet to a 1/2 inch capped iron rod inscribed "Barron Stark" set at the southeast corner of said Lot 4 same being the beginning of a curve to the left (concave northeasterly) having a radius of 163.89 feet;

**CONTINUING** along the arc of said curve to the left an arc length of 82.11 feet, passing through a central angle of 28°42'26" (having a chord bearing of SOUTH 22°08'38" EAST, a chord distance of 81.26 feet) to a set 1/2 inch capped iron rod inscribed "Barron Stark";

**THENCE** SOUTH 37°50'16" EAST, passing a found 1/2 inch iron rod at a distance of 10.95 feet in all a distance of 12.90 feet returning to the **POINT OF BEGINNING** and enclosing 0.92 Acres (40,165 Square Feet) more or less.

#### **LOT #4**

Legal Description for Lot 4, Block 1-R, Diamond Heights Industrial Addition, an addition to the City of Fort Worth, Tarrant County, Texas, according to the plat recorded in Volume 388-42, Page 59-A, Plat Records, Tarrant County, Texas.

**BEGINNING** at a 1/2 inch capped iron rod inscribed "Barron Stark" set at the northeast corner of Lot 3, Block 1-R Diamond Heights Industrial Addition as recorded in Volume 388-42, Page 59 Plat Records, Tarrant County, Texas.

**THENCE** SOUTH 83°31'44" WEST, a distance of 211.57 to a 1/2 inch capped iron rod inscribed "Barron Stark" set at the northwest corner of Lot 3, Block 1-R Diamond Heights Industrial Addition as recorded in Volume 388-42, Page 59 Plat Records, Tarrant County, Texas;

**THENCE** NORTH 00°59'16" WEST, a distance of 134.60 feet to a 1/2 inch capped iron rod inscribed "Barron Stark" set at the southwest corner of Lot 5, Block 1-R Diamond Heights Industrial Addition as recorded in Volume 388-42, Page 59 Plat Records, Tarrant County, Texas;

**THENCE** NORTH 89°00'44" EAST, a distance of 181.69 feet to a 1/2 inch capped iron rod inscribed "Barron Stark" set at the southeast corner of said Lot 5 same being the beginning of a curve to the left (concave northeasterly) having a radius of 59.86 feet;

**THENCE** with the west right-of-way line of Kelly Court (a 60' public right of way) the following calls:

**CONTINUING** along the arc of said curve to the left an arc length of 36.84 feet, passing through a central angle of 35°15'49" (having a chord bearing of SOUTH 18°00'59" EAST, a chord distance of 36.26 feet) to a set 1/2 inch capped iron rod inscribed "Barron Stark" same being the beginning of a reverse curve to the right (concave southwesterly) having a radius of 77.80 feet;

**CONTINUING** along the arc of said curve to the right a arc length of 54.62 feet, passing through a central angle of 40°13'22" (having a chord bearing of SOUTH 19°55'26" EAST, a chord distance of 53.50 feet) to a set 1/2 inch capped iron rod inscribed "Barron Stark"; SOUTH 00°13'05" EAST, a distance of 13.50 feet to a 1/2 inch capped iron rod inscribed "Barron Stark" set at the beginning of a curve to the left (concave easterly) having a radius of 205.35 feet;

**CONTINUING** along the arc of said curve to the left an arc length of 15.65 feet, passing through a central angle of 4°21'57" (having a chord bearing of SOUTH 05°03'17" EAST, a chord distance of 15.64 feet) returning to the **POINT OF BEGINNING** and enclosing 0.57 Acres (24,991 Square Feet) more or less.

### **LOT #5-R**

Legal Description for Lot 5-R, Block 1-R, Diamond Heights Industrial Addition, an addition to the City Of Fort Worth, Tarrant County, Texas, according to the plat recorded in Volume 388-42, Page 59-A, Plat Records, Tarrant County, Texas.

**BEGINNING** at a 1/2 inch capped iron rod inscribed "Barron Stark" set at the northeast corner of Lot 4, Block 1-R Diamond Heights Industrial Addition as recorded in Volume 388-42, Page 59 Plat Records, Tarrant County, Texas;

**THENCE** SOUTH 89°00'44" WEST, a distance of 181.69 feet to a 1/2 inch capped iron rod inscribed "Barron Stark" set at the northwest corner of Lot 4, Block 1-R Diamond Heights Industrial Addition as recorded in Volume 388-42, Page 59 Plat Records, Tarrant County, Texas;

**THENCE** NORTH 00°59'16" WEST, a distance of 177.71 feet to a 1/2 inch capped iron rod inscribed "Barron Stark" set at the southwest corner of the tract described in the deed to Fort Worth Transportation Authority as recorded under instrument number 0216268818 Official Public Records, Tarrant County, Texas;

**THENCE** NORTH 69°35'01" EAST, a distance of 255.94 feet to a set 1/2 inch capped iron rod inscribed "Barron Stark";

**THENCE** SOUTH 00°59'16" EAST, with the west line of Lot 6-A, Block 1-R Diamond Heights Industrial Addition as recorded in Volume 388-42, Page 59 Plat Records, Tarrant County, Texas a distance of 203.58 feet to a 1/2 inch capped iron rod inscribed "Barron Stark" set at the southwest corner of the said Lot 6-A same being the beginning of a curve to the left (concave southeasterly) having a radius of 60.00 feet;

**CONTINUING** along said arc to the left with the west right-of-way line of Kelly Court (a 60' public right of way) an arc length of 93.19 feet, passing through a central angle of 88°59'16" {having a chord bearing of SOUTH 44°12'35" WEST, a chord distance of 84.10 feet) returning to the **POINT OF BEGINNING** and enclosing 1.16 Acres (50,403 Square Feet) more or less.

### **LOT #6-A**

Legal Description for Lot 6-A, Block 1-R, Diamond Heights Industrial Addition, an addition to the City of Fort Worth, Tarrant County, Texas, according to the plat recorded in Volume 388-178, Page 36, Plat Records, Tarrant County, Texas.

**BEGINNING** at a 1/2 inch capped iron rod inscribed "Barron Stark" set at the southwest corner of Lot 6-A, Block 1-R Diamond Heights Industrial Addition as recorded in Volume 388-42, Page 59 Plat Records, Tarrant County, Texas.



**THENCE** North  $00^{\circ} 59' 16''$  West a distance of 206.42 feet to a 1/2 inch capped iron rod inscribed "Barron Stark" set for the northwest corner of Lot 6-A;

**THENCE** South  $77^{\circ} 01' 16''$  East a distance of 4.94 feet;

**THENCE** South  $72^{\circ} 58' 16''$  East a distance of 50.00 feet;

**THENCE** South  $68^{\circ} 46' 16''$  East a distance of 50.00 feet;

**THENCE** South  $64^{\circ} 52' 16''$  East a distance of 50.00 feet;

**THENCE** South  $60^{\circ} 42' 16''$  East a distance of 50.00 feet;

**THENCE** South  $56^{\circ} 21' 16''$  East a distance of 41.30 feet;

**THENCE** South  $50^{\circ} 10' 16''$  East a distance of 50.00 feet;

**THENCE** South  $45^{\circ} 49' 16''$  East a distance of 8.03 feet to a 1/2 inch capped iron rod inscribed "Barron Stark" set for the northeast corner of Lot 6-A;

**THENCE** South  $53^{\circ} 09' 00''$  West a distance of 268.54 feet to a 1/2" iron rod found with cap stamped "CBG SURVEYING" for the most southerly 1 corner of Lot 6-A, said point lying in a curve, concave to the southwest, having a radius of 58.70 feet, and a long chord which bears North  $26^{\circ} 58' 03''$  West a distance of 106.27 feet;

**THENCE** Northerly along said curve a distance of 132.89 feet returning to the **POINT OF BEGINNING** and enclosing 0.97 Acres (42,443 Square Feet) more or less.

## EXHIBIT B

### MAP

3409, 3412, 3413, and 3417 Kelli Court MUNICIPAL SETTING DESIGNATION  
MSD 034 Fort Worth Gear and Axle



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