

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-0032, PROVIDING FOR THE PROHIBITION OF THE USE OF GROUNDWATER FOR POTABLE AND IRRIGATION PURPOSES IN CFW-MSD-0032; 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 Asana Partners, LLC (Applicant) has filed an application for support of a resolution seeking a Municipal Setting Designation (MSD) for the site known as The Foundry AP FW located at 200 and 212 Carroll Street and 2708, 2709 and 2712 Weisenberger Street, 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 27, 2023; 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-0032

- (a) CFW-MSD-0032 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-00032 (Exhibit B).
- (b) The designated groundwater beneath CFW-MSD-0032 is a shallow, perched aquifer from depths of approximately sixteen (16) feet to twenty-five (25) feet below the ground surface. The affected shallow groundwater is underlain by a confining layer of the Fort Worth Limestone, approximately 30 to 50 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 tetrachloroethene.
- (c) The use of the designated groundwater in CFW-MSD-0032 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:
LEEANN GUZMAN, CITY ATTORNEY

By MATT MURRAY
ASSISTANT CITY ATTORNEY

ADOPTED: _____

EFFECTIVE: _____

Exhibit A

EXHIBIT A

SITE

THE FOUNDRY AP FW
200 AND 212 CARROLL STREET AND 2708, 2709 AND 2712 WEISENBERGER STREET
FORT WORTH, TEXAS

DESCRIPTION, of a 1.373 acre (59,800 square feet) tract of land situated in the William Bussell Survey, Abstract No. 151, City of Fort Worth, Tarrant County, Texas; said tract being all of Lots 8 - 10, Lots 17-20, Block 7, all of Lot 8, Block 12, and part of Weisenberger Street (a 60-foot wide right-of-way) all of Weisenberger Addition, an addition to the City of Fort Worth according to the plat recorded in Volume 388-A Page 120 of the Official Deed Records of Tarrant County, Texas; said 1.373 acre (59,800 square feet) tract being more particularly described as follows (Bearing system for this survey is based on the Texas Coordinate System of 1983 (2011 adjustment), Texas North Central Zone 4202 based on observations made on April 4, 2023 with an applied combined scale factor of 1.00012):

BEGINNING, at a 1/2-inch iron rod with "GRANT ENG RPLS 4151" cap found for the northeast corner of said Block 7 and the intersection of the west right-of-way line of Carroll Street (a 60-foot wide right-of-way) and the south right-of-way line of Whitmore Street (a 60-foot wide right-of-way);

THENCE, South 00 degrees, 15 minutes, 35 seconds West, along the east line of said Block 7 and said west line of Carroll Street, at distance of 142.00 feet passing an 1/2 inch iron rod with "PACHECO KOCH" cap found for the southeast corner of said Lot 10, the northeast corner of said Lot 20, continuing in all a total distance of 284.00 feet to a "+" cut in concrete found for the southeast corner of said Block 7;

THENCE, North 89 degrees, 44 minutes, 25 seconds West, along the south line of said Block 7 and the north right of way line of Weisenberger Street (a 60-foot wide right-of-way), a distance of 100.00 feet to a 1/2 inch iron rod with "PACHECO KOCH" cap found for the southwest corner of said Lot 19, Block 7 and the southeast corner of said Lot 18, Block 7;

THENCE, South 00 degrees, 15 minutes, 35 seconds West, departing said south line of Block 7 and said north line of Weisenberger Street over and across said Weisenberger Street, at a distance of 60.00 feet passing a 1/2-inch iron rod found for the northeast corner of said Lot 8 Block 12, in the south right-of-way line of Weisenberger Street and the north line of said Block 12, continuing in all a total distance of 202.00 feet to a 1/2 inch iron rod with "WESTWOOD PS" cap set for the southeast corner of said Lot 8, Block 12; said point being in the north line of Lot 6R1, Block 8, Linwood Addition, an addition to the City of Fort Worth recorded in Instrument No. D212283045 of the Official Public Records of Tarrant County, Texas;

THENCE, North 89 degrees, 44 minutes, 25 seconds West, along said south line of Lot 8, Block 12 and said north line of Lot 6R1, a distance of 50.00 feet to 1/2-inch iron rod found for southwest corner of said Lot 8, Block 12;

THENCE, North 00 degrees, 15 minutes, 35 seconds East, departing said south line of Block 12, said north line of Lot 6R1 and along the west line of said Lot 8, Block 12, at a distance of 142.00 feet passing a 1/2 inch iron rod with "WESTWOOD PS" cap set for the northwest corner of said Lot 8, Block 12; said point being in said south line of Weisenberger Street, continuing in all a total distance of 202.00 feet, over and across said Weisenberger Street to a point for the southwest corner of said Lot 18, Block 7; said point being in said north line of Weisenberger Street;

THENCE, North 89 degrees, 44 minutes, 25 seconds West, along said south line of Block 7 and said north line of Weisenberger Street, a distance of 50.00 feet to a point for the southwest corner of said Lot 17, Block 7;

THENCE, North 00 degrees, 15 minutes, 35 seconds East, departing said south line of Block 7, said north line of Weisenberger Street and along the west line of said Lot 17, Block 7, a distance of 142.00 PAGE 2 OF 2 feet to an 1/2 inch iron rod with "PACHECO KOCH" cap found for the northwest corner of said Lot 17, Block 7;

THENCE, South 89 degrees, 44 minutes, 25 seconds East, along the north line of said Lot 17, Block 7, a distance of 50.00 feet to a "+" cut in concrete for the northeast corner of said Lot 17, the northwest corner of said Lot 18, the southwest corner of said Lot 8, all of said Block 7;

THENCE, North 00 degrees, 15 minutes, 35 seconds East, along the west line of said Lot 8, Block 7, a distance of 142.00 feet to a 1/2-inch iron rod with "GRANT ENG RPLS 4151" cap found for the northwest corner of said Lot 8, Block 7, said point being in said south line of Whitmore Street;

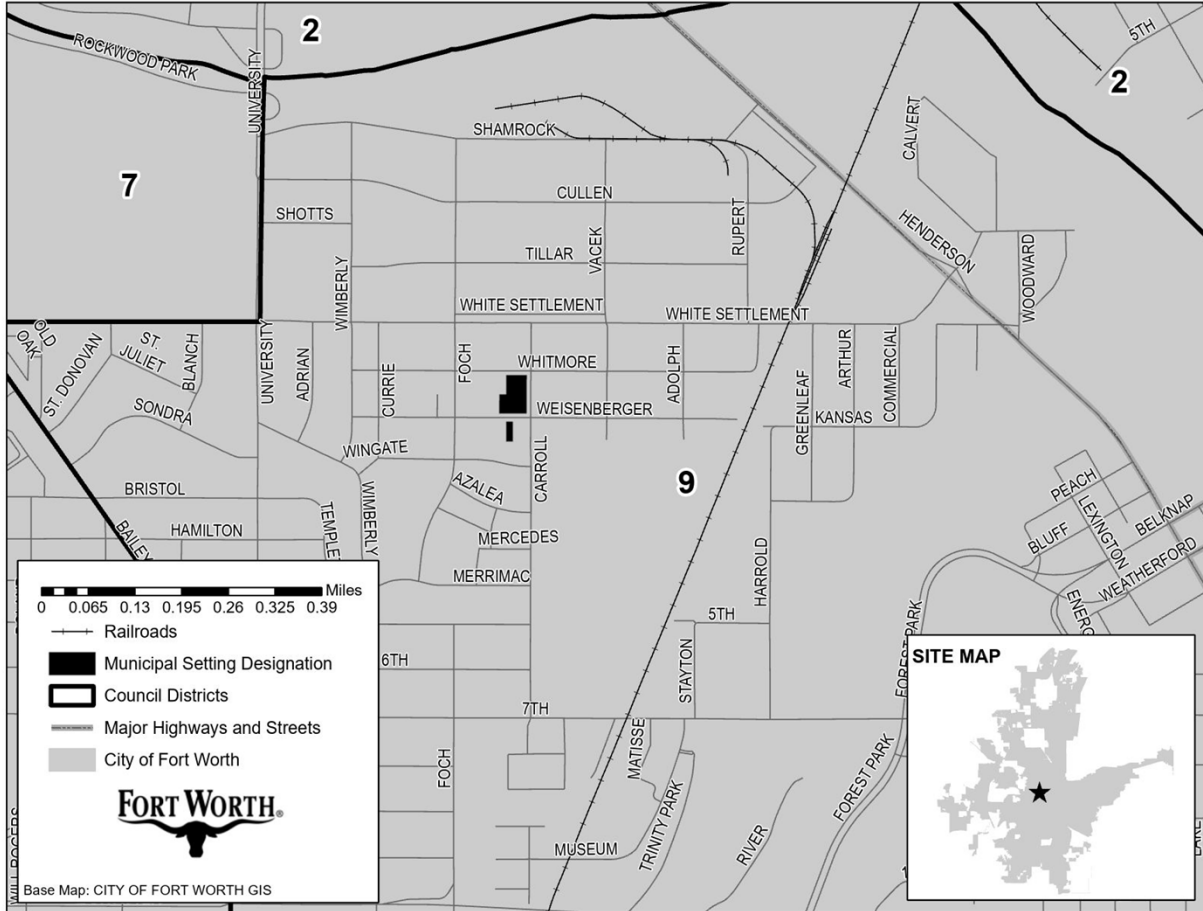
THENCE, South 89 degrees, 44 minutes, 25 seconds East, along said north line of Block 7, and said south line of Whitmore Street, a distance of 150.00 feet to the **POINT OF BEGINNING**;
CONTAINING: 59,800 square feet or 1.373 acres of land, more or less.

Exhibit B

EXHIBIT B

MAP

200 and 212 Carroll Street and 2708, 2709 and 2712 Weisenberger Street, MUNICIPAL SETTING DESIGNATION MSD-032



Betsy Y | February 2023 | Map Source: X:\07 ENVIRONMENTAL\Administration\GIS\LandQuality\MunicipalSettingDesignation\MSD CarrollWeisenberger