

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-0033, PROVIDING FOR THE PROHIBITION OF THE USE OF GROUNDWATER FOR POTABLE AND IRRIGATION PURPOSES IN CFW-MSD-0033; 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 BIP Brennan Property, LLC (Applicant) has filed an application for support of a resolution seeking a Municipal Setting Designation (MSD) for the site known as BIP Brennan Property located at 2201 Brennan Avenue, 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 January 23, 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 (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-0033

- (a) CFW-MSD-0033 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-0033 (Exhibit B).
- (b) The designated groundwater beneath CFW-MSD-0033 is a shallow, perched, discontinuous groundwater that occurs at depths of approximately eleven (11) to nineteen (19) 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 are chlorinated volatile organic compounds, benzene and total petroleum hydrocarbons. The chemical of concern impacts are attributed to historic bulk oil storage and non-specific activities on the subject property.
- (c) The use of the designated groundwater in CFW-MSD-0033 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

SITE

BIP BRENNAN PROPERTY
2201 BRENNAN AVENUE
FORT WORTH, TEXAS

TRACT #1

BEING A 2.246 ACRE TRACT OF LAND SITUATED IN THE EDMUND LITTLE SURVEY, ABSTRACT NUMBER 954, TARRANT COUNTY, TEXAS AND BEING ALL OF LOT 2 AND A PORTION OF LOT 1, BLOCK 1 OF THE GORBETT INDUSTRIAL ADDITION, AN ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS RECORDED IN VOLUME 388-23, PAGE 98 OF THE PLAT RECORDS OF TARRANT COUNTY, TEXAS AND BEING ALL OF THAT CALLED 2.25 ACRE TRACT OF LAND CONVEYED TO HERTEL GENERAL TIRE COMPANY IN VOLUME 3620, PAGE 642 OF THE DEED RECORDS OF TARRANT COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2" IRON ROD FOUND IN THE NORTH LINE OF BRENNAN AVENUE FOR THE SOUTHEAST CORNER OF SAID 2.246 ACRE TRACT, ALSO BEING THE SOUTHEAST CORNER OF SAID LOT 2 AND BEING THE SOUTHWEST CORNER OF LOT 4, BLOCK 1 OF THE GORBETT INDUSTRIAL ADDITION RECORDED IN VOLUME 388-216, PAGE 4 OF THE PLAT RECORDS OF TARRANT COUNTY, TEXAS, FROM WHICH A 5/8" IRON ROD FOUND BEARS S 71°55'14" E, A DISTANCE OF 937.92 FEET. SAID 1/2" IRON ROD FOUND BEING FURTHER REFERRED TO AS POINT OF BEGINNING 'A', HAVING A TEXAS COORDINATE SYSTEM OF 1983, NORTH CENTRAL ZONE, U.S. SURVEY FOOT, GRID COORDINATE VALUE OF N:6972095.46, E: 2328022.63 FEET FOR REFERENCE;

THENCE FROM SAID POINT OF BEGINNING 'A', WITH THE NORTH LINE OF BRENNAN AVENUE, N 71°55'14" W, PASSING THE SOUTHWEST CORNER OF SAID LOT 2 AT A DISTANCE OF 200.00 FEET AND CONTINUING IN ALL A DISTANCE OF 208.06 FEET TO A 5/8" IRON ROD FOUND FOR THE SOUTHWEST CORNER OF SAID 2.246 ACRE TRACT, ALSO BEING THE SOUTHEAST CORNER OF LOT 1-R-B, BLOCK 1 OF THE GORBETT INDUSTRIAL ADDITION AS RECORDED IN VOLUME 388-109, PAGE 102 OF THE PLAT RECORDS OF TARRANT COUNTY, TEXAS;

THENCE, DEPARTING THE NORTH LINE OF BRENNAN AVENUE, N 18°56'54" E, A DISTANCE OF 432.82 FEET TO A 1/2" IRON ROD WITH A CAP STAMPED "RPLS 6870" SET FOR THE NORTHWEST CORNER OF SAID 2.246 ACRE TRACT, ALSO BEING A POINT IN THE EAST LINE OF SAID LOT 1-R-B;

THENCE, S 71°33'43" E, A DISTANCE OF 244.87 FEET TO A 2" STEEL BEAM FOUND FOR THE NORTHEAST CORNER OF SAID 2.246 ACRE TRACT, ALSO BEING A POINT IN THE WEST LINE OF SAID LOT 4, FROM WHICH A 1/2" IRON ROD FOUND FOR THE NORTHEAST CORNER OF SAID LOT 1 BEARS N 23°49'17" E, A DISTANCE OF 200.05 FEET;

THENCE, S 23°49'17" W, A DISTANCE OF 433.41 FEET TO THE POINT OF BEGINNING 'A', CONTAINING 2.246 ACRES OR 97,851 SQ. FEET OF LAND, MORE OR LESS.

TRACT #2

BEING A 1.145 ACRE TRACT OF LAND SITUATED IN THE EDMUND LITTLE SURVEY, ABSTRACT NUMBER 954, TARRANT COUNTY, TEXAS AND BEING A PORTION OF LOT 1, BLOCK 1 OF THE GORBETT INDUSTRIAL ADDITION, AN ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS RECORDED IN VOLUME 388-23, PAGE 98 OF THE PLAT RECORDS OF TARRANT COUNTY, TEXAS AND BEING ALL OF THAT TRACT OF LAND CONVEYED TO HERTEL GENERAL TIRE COMPANY IN VOLUME 3737, PAGE 625 OF THE DEED RECORDS OF TARRANT COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2" IRON ROD FOUND IN THE SOUTH LINE OF THE UNION PACIFIC RAILROAD RIGHT-OF-WAY FOR THE NORTHEAST CORNER OF SAID 1.145 ACRE TRACT, ALSO BEING THE NORTHEAST CORNER OF SAID LOT 1 AND BEING THE NORTHWEST CORNER OF LOT 4, BLOCK 1 OF THE GORBETT INDUSTRIAL ADDITION RECORDED IN VOLUME 388-216, PAGE 4 OF THE PLAT RECORDS OF TARRANT COUNTY, TEXAS. SAID 1/2" IRON ROD FOUND BEING FURTHER REFERRED TO AS **POINT OF BEGINNING 'B'**, HAVING A TEXAS COORDINATE SYSTEM OF 1983, NORTH CENTRAL ZONE, U.S. SURVEY FOOT, GRID COORDINATE VALUE OF N:**6972674.96**, E:**2328278.48** FEET FOR REFERENCE;

THENCE FROM SAID POINT OF BEGINNING 'B', S 23°49'17" W, A DISTANCE OF 200.05 FEET TO A 2" STEEL BEAM FOUND FOR THE SOUTHEAST CORNER OF SAID 1.145 ACRE TRACT, FROM WHICH A 1/2" IRON ROD FOUND FOR THE SOUTHWEST CORNER OF SAID LOT 4 BEARS S 23°49'17" W, A DISTANCE OF 433.41 FEET;

THENCE, N 71°33'43" W, A DISTANCE OF 244.87 FEET TO A 1/2" IRON ROD WITH A CAP STAMPED "RPLS 6870" SET FOR THE SOUTHWEST CORNER OF SAID 1.145 ACRE TRACT, ALSO BEING A POINT IN THE EAST LINE OF LOT 1-R-B, BLOCK 1 OF THE GORBETT INDUSTRIAL ADDITION AS RECORDED IN

VOLUME 388-109, PAGE 102 OF THE PLAT RECORDS OF TARRANT COUNTY, TEXAS;

THENCE, N 18°56'54" E, A DISTANCE OF 194.18 FEET TO A 1/2" IRON ROD FOUND FOR THE NORTHWEST CORNER OF SAID 1.145 ACRE TRACT, ALSO BEING THE NORTHEAST CORNER OF LOT 1-R-A OF THE GORBETT INDUSTRIAL ADDITION AS RECORDED IN VOLUME 388-109, PAGE 102 OF THE PLAT RECORDS OF TARRANT COUNTY, TEXAS AND BEING A POINT IN THE SOUTH LINE OF SAID UNION PACIFIC RAILROAD RIGHT-OF-WAY;

THENCE, WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 1333.40 FEET, ARC LENGTH OF 42.36 FEET, CENTRAL ANGLE OF 01°49'12", CHORD BEARING OF S 73°25'07" E AND A CHORD DISTANCE OF 42.36 FEET TO A 1/2" IRON ROD WITH A CAP STAMPED "RPLS 6870" SET FOR CORNER;

THENCE, S 72°30'31" E, A DISTANCE OF 219.60 FEET TO THE POINT OF BEGINNING 'B', CONTAINING 1.145 ACRES OR 49,886 SQ. FEET OF LAND, MORE OR LESS.

EXHIBIT B
MAP

