

MSD 16

MSD 15

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Cert

Kathleen Hartnett White, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 24, 2006

Mr. John Allums, Executive Vice President and Treasurer
HPCL GP, LLC general partner of Cityville at Lemmon, L.P.
3890 W. Northwest Hwy., Ste 700
Dallas, TX 75220

RE: Certification of Municipal Setting Designation Application for the Cityville at Lemmon, L.P., Property, generally located at 5108 through 5126 Lemmon Avenue and 3512 through 3518 Wheeler Street, Dallas, TX (MSDAPP016, MSD015)

Dear Mr. Allums:

Enclosed is the Municipal Setting Designation Certification for your site. You can use this certification as the basis to avail of the groundwater assessment and remediation flexibility offered in accordance with Texas Health and Safety Code §361.808, consistent with the site-specific circumstances.

If I can be of any further assistance, please do not hesitate to contact me at 512/239-2268 or via e-mail (cclarke@tceq.state.tx.us).

Sincerely,

A handwritten signature in cursive script that reads "Chet Clarke".

Chet Clarke, Manager
Technical Support Section
Remediation Division

CC/ok

Enclosure

Texas Commission on Environmental Quality



Municipal Setting Designation Certificate 015

As provided for in §361.807, Subchapter W, Texas Health and Safety Code (Solid Waste Disposal Act):

I, Glenn Shankle, Executive Director of the Texas Commission on Environmental Quality certify the Municipal Setting Designation for the Cityville at Lemmon, L.P. Property, generally located at 5108 through 5126 Lemmon Avenue and 3512 through 3518 Wheeler Street, Dallas, Texas, the tract of land described in Exhibit "A". The eligibility requirements of Texas Health and Safety Code §361.803 are satisfied as attested to by the affidavit in Exhibit "B" provided pursuant to Texas Health and Safety Code §361.804(b)(2)(D). This certificate shall continue in effect so long as the institutional control required by Texas Health and Safety Code §361.8065 is maintained in effect.

Any person addressing environmental impacts for a property located in the certified municipal setting designation shall complete any necessary investigation and response action requirements in accordance with Texas Health and Safety Code §361.808, in conjunction with the applicable Texas Commission on Environmental Quality environmental remediation regulation, as modified by Texas Health and Safety Code §361.808.

EXECUTED this 19 day of May, 2006.



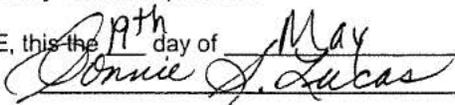
Glenn Shankle
Executive Director
Texas Commission on Environmental Quality

STATE OF TEXAS
TRAVIS COUNTY

BEFORE ME, on this the 19th day of May, 2006, personally appeared Glenn Shankle, Executive Director of the Texas Commission on Environmental Quality, known to me to be the person whose name is subscribed to the foregoing instrument, and they acknowledged to me that they executed the same for the purposes and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 19th day of May, 2006.

 **CONNIE S. LUCAS**
Notary Public, State of Texas
My Commission Expires
JANUARY 30, 2010



Notary Public in and for the State of Texas

Notary without Bond

LEGAL DESCRIPTION

LOT 1 THROUGH LOT 8, BLOCK 12/2473 &
PART OF LOT 2 AND LOT 6 AND ALL OF LOT 3, 4 AND 5A, BLOCK 7/2461 &
LEMMON AVENUE AND WHEELER STREET ROW & ALLEY ROW

BEING a tract of land situated in the Crawford Grigsby Survey, Abstract No. 532, City of Dallas, Dallas County, Texas and being all of Lot 1 through Lot 8, Block 12/2473 of Elsmere Addition, an addition to the City of Dallas, Dallas County, Texas according to the map recorded in Volume 1, Page 42, Map Records of Dallas County, Texas and Part of Lot 2 and Lot 6 and all of Lot 3 and Lot 4, Block 7/2461 of Lemmon Avenue Heights No. 2 Addition, an addition to the City of Dallas, Dallas County, Texas according to the map thereof recorded in Volume 125, Page 159, Deed Records of Dallas County, Texas and all of Lot 5A, Block 7/2461 of Lemmons Gate, an addition to the City of Dallas, Dallas County, Texas according to the map thereof recorded in Volume 87177, Page 1718, Deed Records of Dallas County, Texas, part of the right of way of Lemmon Avenue and Wheeler Street and part of a 15 foot Alley right of way, and being more particularly described as follows (the bearing basis for this description is a bearing of S 54°06'10" W for the northwest line of Cedar Plaza as shown on the map of Lot 18A, Block 4/2465 of Easton Apartments as recorded in Volume 86072, Page 2610, Deed Records of Dallas County, Texas):

BEGINNING at a found ½ iron rod for a corner in the at the intersection of the northeast line of Lemmon Avenue (a 110 foot right of way), said point being N 35°50'28" W, a distance of 73.53 feet from the intersection of the northeast line of Lemmon Avenue with the northwest line of Mahanna Street (a 50 foot right of way);

THENCE, S 54°09'32" W, crossing Lemmon Avenue, a distance of 110.00 feet to a point for a corner in the southwest line of Lemmon Avenue;

THENCE, N 35°50'28" W, with the southwest line of Lemmon Avenue, a distance of 416.90 feet to a point for a corner;

THENCE, N 54°09'32" E, crossing Lemmon Avenue, a distance of 110.00 feet to a point for a corner at the intersection of the northeast line of Lemmon Avenue with the northwest line of Wheeler Street (a 50 foot right of way);

LEGAL DESCRIPTION (continued)

LOT 1 THROUGH LOT 8, BLOCK 12/2473 &
PART OF LOT 2 AND LOT 6 AND ALL OF LOT 3, 4 AND 5A, BLOCK 7/2461 &
LEMMON AVENUE AND WHEELER STREET ROW & ALLEY ROW

THENCE, N 53°54'31" E, with the northeast line of Wheeler Street, a distance of 224.29 feet to a point for a corner;

THENCE, S 36°05'29" E, crossing Wheeler Street, a distance of 50.00 feet to a found 1 inch iron rod for a corner in the southeast line of Wheeler Street, said point being the common west corner of said Lot 8 and Lot 9, Block 12/2473 of the said Elsmere Addition;

THENCE, S 35°48'48" E, departing the southeast line of Wheeler Street and with the common line of said Lot 8 and Lot 9, a distance of 137.56 feet to a set 5/8 inch rod for a corner in the northwest line of Lot 12, Block 7/2461 of the said Lemmon Avenue Heights No. 2 Addition, said point being the common south corner of said Lot 8 and Lot 9;

THENCE, S 53°57'29" W, with the northwest line of said Lot 12, a distance of 49.32 feet to a found 2 inch pipe for a corner, said point being the west corner of said Lot 12 and the north corner of a 15 foot Alley right of way;

THENCE, S 35°47'18" E, with the northeast line of the said Alley right of way, a distance of 226.34 feet to a point for a corner;

THENCE, S 54°12'42" W, crossing the said Alley right of way, a distance of 15.00 feet to a set PK nail for a corner in the southwest line of the said alley right of way, said point being the north corner of a tract of land conveyed to Diana Cunningham by deed recorded in Volume 91039, Page 127, Deed Records of Dallas County, Texas;

THENCE, S 52°47'35" W, with the southwest line of the said Cunningham tract, a distance of 159.95 feet to the Point of Beginning and Containing 127,798 square feet or 2.9338 acres of land.

LEGAL DESCRIPTION (continued)

LOT 1 THROUGH LOT 8, BLOCK 12/2473 &
PART OF LOT 2 AND LOT 6 AND ALL OF LOT 3, 4 AND 5A, BLOCK 7/2461 &
LEMMON AVENUE AND WHEELER STREET ROW & ALLEY ROW

SURVEYOR'S CERTIFICATE

The undersigned hereby certifies the above legal description was prepared from an on the ground survey performed from July, 2005 through November, 2005 under the supervision of the undersigned and that the legal description is true and accurate.

Dated: December 5, 2005



L. Lynn Kadleck
Registered Professional
Land Surveyor No. 3952



EXHIBIT "A"
BOUNDARY SURVEY

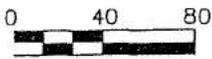
LEGEND

FIR Found Iron Rod
SIR Set Iron Rod
FIP Found Iron Pipe
() Calls Per Map

2.9338 ACRE TRACT

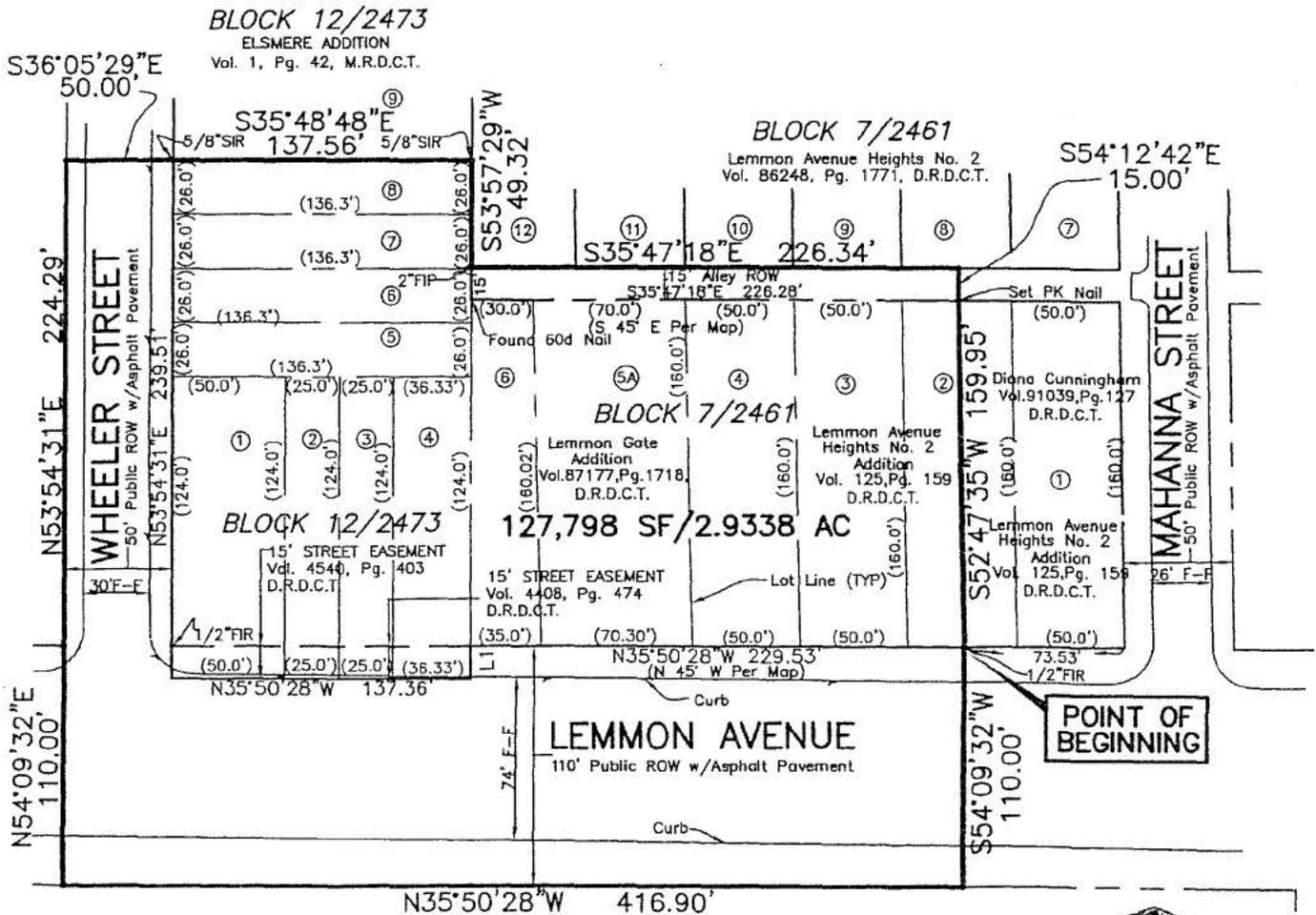
PART OF LOTS 2&6, LOTS 3&4, BLOCK 7/2461
LEMMON AVENUE HEIGHTS NO.2 ADDITION,
LOT 5A, BLOCK 7/2461, LEMMON'S GATE ADDITION
LOT'S 1-8, BLOCK 12/2473, ELSMERE ADDITION &
PART OF LEMMON AVENUE AND WHEELER STREET ROW'S
CROWFORD GRIGSBY SURVEY, ABSTRACT NO. 532
DALLAS, DALLAS COUNTY, TEXAS

SCALE: 1"=80'



Job No. 05006
Date: November 18, 2005
Revised: December 5, 2005

LINE	BEARING	DISTANCE
L1	S 53°57'29" W	15.00'

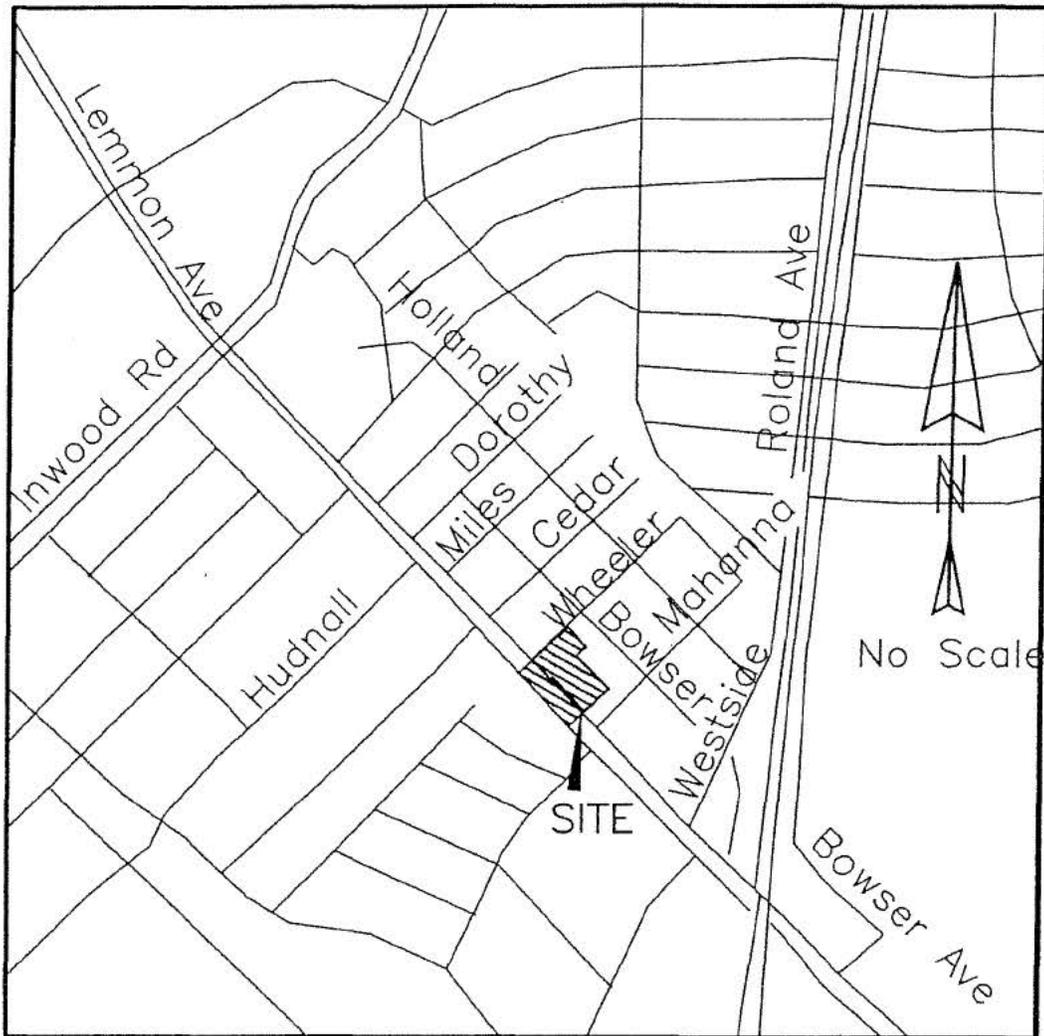


NOTE: The bearing basis for this survey is a bearing of S 54°06'10" W for the northwest line of Cedar Plaza as shown on the map of Lot 18A, Block 4/2465 of Easton Apartments as recorded in Volume 86072, Page 2610, Deed Records of Dallas County, Texas.

NOTE: This Survey was prepared from an on the ground survey of Lots 1-8, Block 12/2473 and Lots 2, 3, 4, 5A and 6, Block 7/2461 in accordance with the current Texas Society Professional Surveyors Standards and Specifications for a Category 1A, Condition II Survey on December 8, 2004 and from City Block book information for the right of way of Lemmon Avenue and Wheeler Street.



Lynn Kadleck
Registered Professional
Land Surveyor No. 3952



LOCATOR MAP
N.T.S.



Municipal Setting Designation Application Form

TCEQ Office Use Only:	Date Add. Info Req. 5/5/06
Application No: MSD/MP/016	Date Add. Info Rec'd 5/8/06
Date Received: 2/22/06	Date Certified: 5/19/06
	Date Denied: 1/1

Reset form

Municipal Setting Designation Eligibility Criteria:

Is the proposed municipal setting designation (MSD) within the corporate limits of a municipality authorized by statute that has a population of at least 20,000? (See most recent <i>place</i> population estimate reported at http://txsdc.utsa.edu/tpepp/txpopest.php .)	<input type="radio"/> Yes	<input type="radio"/> No ¹
Is the proposed municipal setting designation (MSD) within the extraterritorial jurisdiction of a municipality authorized by statute that has a population of at least 20,000? (See most recent <i>place</i> population estimate reported at http://txsdc.utsa.edu/tpepp/txpopest.php .)	<input type="radio"/> Yes	<input type="radio"/> No ¹
Municipality name: City of Dallas	Population: 1,214,048	
Is there a public drinking water supply system that satisfies the requirements of THSC Chapter 341 and supplies or is capable of supplying drinking water to: a) the proposed MSD property, and b) each property within 0.5 miles beyond the boundary of the proposed MSD?	<input type="radio"/> Yes	<input type="radio"/> No ¹
¹ If No, the eligibility criteria are not met. Do not submit an application.		

Applicant and Fee Payment Information:

Contact Person: <input type="radio"/> Mr. <input type="radio"/> Ms. John Allums		
Title: Executive Vice President and Treasurer		
Company: HPCL GP, LLC general partner of Cityville at Lemmon, L.P.		
Mailing Address: 3890 W. Northwest Hwy., Suite 700		
City: Dallas	State: TX	Zip: 75220
Telephone: 214 / 739-8141	Telefax: 469 / 232-1471	
E-mail Address:		
Is the required \$1,000 application being submitted to TCEQ in advance or at the same time the MSD application is being submitted to TCEQ?	<input type="radio"/> Yes	<input type="radio"/> No ²
² Do not submit application.		

Notice Information:

<u>On</u> or <u>before</u> the date of submission of the application to TCEQ, was notice provided to:		
a) each municipality:		
1) where the proposed MSD is located?	<input type="radio"/> Yes	<input type="radio"/> No ³
2) with a border within 0.5 miles beyond the proposed MSD boundaries?	<input type="radio"/> Yes	<input type="radio"/> No ³ <input type="radio"/> NA ⁴
3) that owns or operates a groundwater supply well located within five miles beyond the proposed MSD boundaries?	<input type="radio"/> Yes	<input type="radio"/> No ³ <input type="radio"/> NA ⁴
b) each current owner of a private well registered with the commission and located within five miles beyond the proposed MSD boundaries?	<input type="radio"/> Yes	<input type="radio"/> No ³ <input type="radio"/> NA ⁴
c) each retail public utility, as defined by Texas Water Code, §13.002, that owns or operates a groundwater supply well located within five miles beyond the proposed MSD boundaries?	<input type="radio"/> Yes	<input type="radio"/> No ³ <input type="radio"/> NA ⁴
³ Do not submit application.		
⁴ NA only when no such municipality, private well owner, or retail public utility exists		

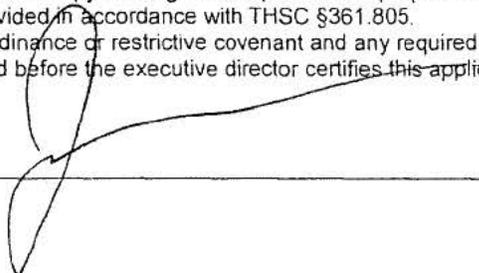
MSD Information:

List all existing TCEQ and US Environmental Protection Agency registration, permit, identification numbers (e.g., SWR No., VCP No., LPST ID No., UIC Registration No., PWS ID. No.), if any, that apply to the groundwater contamination situation within the proposed MSD boundary. State "none" if none applicable. VCP No. 1825, LPST No. 105410		
Is the proposed designated groundwater contaminated in excess of an applicable potable water ⁵ use standard (i.e., 30 TAC 350, ^{GW} GW _{ing})?	<input type="radio"/> Yes	<input type="radio"/> No ⁶
Was the groundwater contamination previously reported to the TCEQ? (To support implementation of HB 3030, 78 th Legislature.)	<input type="radio"/> Yes, when? 05/17 / 05	<input type="radio"/> No
Is there a potable-use well within the boundary of the proposed MSD that uses the designated groundwater as source water?	<input type="radio"/> Yes ⁶	<input type="radio"/> No
Is there a potable-use well within the boundary of the proposed MSD that uses a deeper groundwater zone for the source water that is not properly sealed off from the designated groundwater?	<input type="radio"/> Yes ⁶	<input type="radio"/> No
Is the applicant aware of any non-consumptive use of the groundwater or other human health or ecological exposure pathways that are of concern? If yes, specify:	<input type="radio"/> Yes	<input type="radio"/> No
Has each municipality and retail public utility identified in §361.8065 provided firm commitment to adopt an ordinance or resolution in support of the application?	<input type="radio"/> Yes	<input type="radio"/> No ⁶
Is a copy of the ordinance or restrictive covenant that restricts consumptive use and appropriately restricts other uses of and contact with the designated groundwater, and any required resolutions provided with this application?	<input type="radio"/> Yes	<input type="radio"/> No
⁵ "Potable water" means water that is used for irrigating crops intended for human consumption, drinking, showering, bathing, or cooking purposes [THSC §361.801(2)].		
⁶ Do not submit an application.		

I affirmatively state that (place an X in all applicable blanks):

- The MSD eligibility criteria of THSC §361.803 are satisfied.
- True and accurate copies of all documents demonstrating that the MSD eligibility criteria provided by THSC §361.803 have been satisfied and are included with the application.
- A true and accurate copy of a legal description of the proposed MSD property is included with the application.
- Notice was provided in accordance with THSC §361.805.
- A copy of an ordinance or restrictive covenant and any required resolutions are provided in this application or will be provided before the executive director certifies this application.

Applicant Signature



Date

2/16/06

Before me Paula W. Hicks the undersigned authority, on this day personally appeared

John R. Allen and signed this Municipal Setting Designation Application.
Name of Applicant

Sworn, subscribed and signed before me in the County of Dallas, State of TX, on the 16 day of February, 2006

Paula W. Hicks

