

## Texas Commission on Environmental Quality



### Municipal Setting Designation Certificate 004

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 Kimco Montgomery Plaza, LP, 2600 West 7<sup>th</sup> Street, Fort Worth, 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 31<sup>st</sup> day of August, 2005.

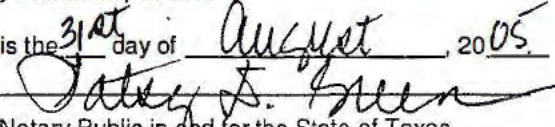
  
\_\_\_\_\_  
Glenn Shankle  
Executive Director

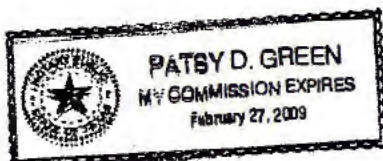
Texas Commission on Environmental Quality

STATE OF TEXAS  
TRAVIS COUNTY

BEFORE ME, on this the 31<sup>st</sup> day of August, 2005, 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 31<sup>st</sup> day of August, 2005.

  
\_\_\_\_\_  
Notary Public in and for the State of Texas



**DAVID PETREE**  
*REGISTERED PROFESSIONAL LAND SURVEYOR*  
11015 Midway Road  
Dallas, Texas 75229  
Phone: (214) 358-4500  
Fax: (214) 358-4600

**Metes & Bounds Description**  
**Lot 1 – Block 1**  
**Montgomery Ward & Company Addition**  
**City of Fort Worth**  
**Tarrant County, Texas**

**Composite – Lot 1**

**BEING** all that certain lot, tract or parcel of land situated in the City of fort Worth, Tarrant County, Texas, and being all of Lot 1 in Block 1 of Montgomery Ward & Company Addition, an addition to the City of fort Worth, Texas, according to the plat thereof recorded in Volume 388-138 at Page 5 of the Plat Records of Tarrant County, Texas, and being more particularly described by metes and bounds as follows;

**BEGINNING** at an "x" found in concrete in the East right of way line of Carroll Street (64 foot right of way) for the Northwest corner of said Lot 1 in Block 1 of Montgomery Ward & Company Addition;

**THENCE** South 89° 55' 00" East (Bearing Basis is the plat of Montgomery Ward & Company Addition recorded in Volume 388-138 at Page 5 of the Plat Records of Tarrant County, Texas) along the North line of said Lot 1 in Block 1 of Montgomery Ward & Company Addition, and being common to South line of the Weisenberger Addition, an addition to the City of Fort Worth, Texas, according to the plat thereof recorded in Volume 388-A at Page 120 of the plat Records of Tarrant County, Texas, for a distance of 1419.00 feet to a 1/2" iron rod found for the Northeast corner of said Lot 1 in Block 1 of the Montgomery Ward & Company Addition, said point also being in the West right of way line of the St. Louis – San Francisco – Texas Railroad (125 foot right of way);

**THENCE** South 22° 07' 45" West along the common line of said Lot 1 in Block 1 of the Montgomery Ward & Company Addition and the St. Louis – San Francisco – Texas Railroad for a distance of 2134.15 feet to a p.k. nail found for the Southeast corner of said Lot 1 in Block 1 of the Montgomery Ward & Company Addition, said point also being in the North right of way line of West Seventh Street ( 100 foot right of way);

**THENCE** North 89° 59' 58" West along the common line of Lot 1 in Block 1 of the Montgomery Ward & Company Addition and West Seventh Street for a distance of 615.07 feet to a 1/2" iron rod found for the Southwest corner of Lot 1 in Block 1 of the Montgomery Ward & Company Addition, said point also being in the East right of way line of Carroll Street (64 foot right of way);

THENCE North along the common line of said Lot 1 in Block 1 of the Montgomery Ward & Company Addition and the East right of way line of Carroll Street for a distance of 1979.00 feet to the POINT OF BEGINNING and CONTAINING 46.1911 ACRES OF LAND, more or less.

Metes & Bounds Description  
Prepared June 17, 2004  
From Surveys.

By:

*David Petree*

David Petree, RPLS  
Registered Professional Land Surveyor  
No. 1890





## Municipal Setting Designation Application Form

<b>TCEQ Office Use Only:</b> Application No: <u>MSDAPP008</u> Date Received: <u>06/17/05</u>	Date Add. Info Req. / / Date Add. Info Rec'd / / Date Certified: / / Date Denied: / /
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**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 <a href="http://txsdc.tamu.edu/tpepp/txpopest.php">http://txsdc.tamu.edu/tpepp/txpopest.php</a> .)	<input checked="" type="radio"/> Yes	<input type="radio"/> No <sup>1</sup>
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 <a href="http://txsdc.tamu.edu/tpepp/txpopest.php">http://txsdc.tamu.edu/tpepp/txpopest.php</a> .)	<input checked="" type="radio"/> Yes	<input type="radio"/> No <sup>1</sup>
Municipality name: <u>City of Fort Worth</u>	Population: <u>592,836</u>	
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 checked="" type="radio"/> Yes	<input type="radio"/> No <sup>1</sup>
<sup>1</sup> If No, the eligibility criteria are not met. <b>Do not submit an application.</b>		

**Applicant and Fee Payment Information:**

Contact Person: <input checked="" type="radio"/> Mr. <input type="radio"/> Ms. <u>Wayne R. Miller</u>		
Title: <u>Vice President, J. P. Weber &amp; Co.</u>		
Company: <u>Kimco Montgomery Plaza, L.P. c/o J. P. Weber &amp; Co.</u>		
Mailing Address: <u>16000 Dallas Parkway, Suite 300</u>		
City: <u>Dallas</u>	State: <u>Texas</u>	Zip: <u>75248</u>
Telephone: <u>972 / 739-8450</u>	Telefax: <u>972 / 739-8493</u>	
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 checked="" type="radio"/> Yes	<input type="radio"/> No <sup>2</sup>
<sup>2</sup> <b>Do not submit application.</b>		

**Notice Information:**

<u>On or 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 checked="" type="radio"/> Yes	<input type="radio"/> No <sup>4</sup>
2) with a border within 0.5 miles beyond the proposed MSD boundaries?	<input checked="" type="radio"/> Yes	<input type="radio"/> No <sup>3</sup> <input type="radio"/> NA <sup>4</sup>
3) that owns or operates a groundwater supply well located within five miles beyond the proposed MSD boundaries?	<input checked="" type="radio"/> Yes	<input type="radio"/> No <sup>3</sup> <input type="radio"/> NA <sup>4</sup>
b) each current owner of a private well registered with the commission and located within five miles beyond the proposed MSD boundaries?	<input checked="" type="radio"/> Yes	<input type="radio"/> No <sup>3</sup> <input type="radio"/> NA <sup>4</sup>
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 checked="" type="radio"/> Yes	<input type="radio"/> No <sup>3</sup> <input type="radio"/> NA <sup>4</sup>
<sup>3</sup> <b>Do not submit application.</b>		
<sup>4</sup> 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. 1671		
Is the proposed designated groundwater contaminated in excess of an applicable potable water <sup>5</sup> use standard (i.e., 30 TAC 350, <sup>GW</sup> GW <sub>ing</sub> )?	<input type="radio"/> Yes	<input type="radio"/> No <sup>6</sup>
Was the groundwater contamination previously reported to the TCEQ? (To support implementation of HB 3030, 78 <sup>th</sup> Legislature.)	<input checked="" type="radio"/> Yes, when? 01 / 06 / 04	<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 <sup>5</sup>	<input checked="" 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 <sup>5</sup>	<input checked="" 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 checked="" 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 checked="" type="radio"/> No <sup>6</sup>
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 checked="" type="radio"/> Yes	<input type="radio"/> No
<sup>5</sup> "Potable water" means water that is used for irrigating crops intended for human consumption, drinking, showering, bathing, or cooking purposes [THSC §361.801(2)].		
<sup>6</sup> 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.

KIMCO MONTGOMERY PLAZA, L.P.  
By: \_\_\_\_\_

Applicant Signature Wayne R. Miller agent and attorney-in-fact

Date 6/8/05

Before me LISA A. LINCH the undersigned authority, on this day personally appeared  
Name of Notary  
Kimco Montgomery Plaza, L.P. and signed this Municipal Setting Designation Application.  
Name of Applicant

Sworn, subscribed and signed before me in the County of Dallas, State of Texas on the 08  
day of June, this month of 2005

