

ORDINANCE NO. 28686

An ordinance providing for the abandonment of portions of Borger Street (formerly Terry Street) and a street easement located adjacent to City Block 7259 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to Austin International Ventures, Inc.; providing for the terms and conditions of the abandonment and quitclaim made herein; providing for barricading; providing for the indemnification of the City of Dallas against damages arising out of the abandonment herein; providing for the consideration to be paid to the City of Dallas; providing for the payment of the publication fee; and providing an effective date for this ordinance.

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**WHEREAS**, the City Council of the City of Dallas, acting pursuant to law and upon the request and petition of Austin International Ventures, Inc., a Delaware corporation, hereinafter referred to as **GRANTEE**, deems it advisable to abandon and quitclaim the hereinafter described tract of land to **GRANTEE**, and is of the opinion that, subject to the terms and conditions herein provided, said portions of Borger Street (formerly Terry Street) and a street easement are not needed for public use, and same should be abandoned and quitclaimed to **GRANTEE** as hereinafter stated; and

**WHEREAS**, the City Council of the City of Dallas is of the opinion that the best interest and welfare of the public will be served by abandoning and quitclaiming the same to **GRANTEE** for the consideration and subject to the terms and conditions hereinafter more fully set forth; **Now, Therefore,**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:**

**SECTION 1.** That the tract of land described in Exhibit A, which is attached hereto and made a part hereof for all purposes, be and the same is abandoned, vacated and closed insofar as the right, title and interest of the public are concerned; subject, however, to the conditions hereinafter more fully set out.

**SECTION 2.** That for and in monetary consideration of the sum of **ONE HUNDRED FORTY-SEVEN THOUSAND THREE HUNDRED SEVENTY-EIGHT AND NO/100 (\$147,378.00) DOLLARS** paid by **GRANTEE**, and the further consideration described

in Sections 8, 9 and 10, the City of Dallas does by these presents **FOREVER QUITCLAIM** unto the said **GRANTEE**, subject to the conditions, reservations, and exceptions hereinafter made and with the restrictions and upon the covenants below stated, all of its right, title and interest in and to the certain tract of land hereinabove described in Exhibit A. **TO HAVE AND TO HOLD** all of such right, title and interest in and to the property and premises, subject aforesaid, together with all and singular the rights, privileges, hereditaments and appurtenances thereto in any manner belonging unto the said **GRANTEE** forever.

**SECTION 3.** That upon payment of the monetary consideration set forth in Section 2, **GRANTEE** accepts the terms, provisions, and conditions of this ordinance.

**SECTION 4.** That the City Controller is authorized to deposit the sum paid by **GRANTEE** pursuant to Section 2 above in the General Fund 0001, Department DEV, Balance Sheet 0519 and Department of Sustainable Development and Construction – Real Estate Division shall be reimbursed for the cost of obtaining the legal description, appraisal and other administrative costs incurred. The reimbursement proceeds shall be deposited in General Fund 0001, Department DEV, Unit 1183, Object 5011 and any remaining proceeds shall be transferred to the General Capital Reserve Fund 0625, Department BMS, Unit 8888, Revenue Source 8416.

**SECTION 5.** That the abandonment and quitclaim provided for herein are made subject to all present zoning and deed restrictions, if the latter exist, and are subject to all existing easement rights of others, if any, whether apparent or non-apparent, aerial, surface, underground or otherwise, and are further subject to the conditions contained in Exhibit B, which is attached hereto and made a part hereof for all purposes.

**SECTION 6.** That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns.

**SECTION 7.** That the abandonment and quitclaim provided for herein shall extend only to the public right, title, easement and interest, and shall be construed to extend only to that interest the Governing Body of the City of Dallas may legally and lawfully abandon and vacate.

**SECTION 8.** That as a condition of this abandonment and as part of the consideration for the quitclaim to **GRANTEE** herein, **GRANTEE**, its successors and assigns, agree to indemnify, defend, release and hold whole and harmless the City of Dallas of, from and against any and all claims for damages, fines, penalties, costs or expenses to persons or property that may arise out of, or be occasioned by or from: (i) the use and occupancy of the property described in Exhibit A by **GRANTEE**, its successors and assigns; (ii) the presence, generation, spillage, discharge, release, treatment or disposition of any Hazardous Substance on or affecting the area set out in Exhibit A; (iii) all corrective actions concerning any discovered Hazardous Substances on or affecting the area described in Exhibit A, which **GRANTEE**, its successors and assigns agree to undertake and complete in accordance with applicable federal, state and local laws and regulations; and (iv) the abandonment, closing, vacation and quitclaim by the City of Dallas of the area set out in Exhibit A. **GRANTEE**, its successors and assigns hereby agree to defend any and all suits, claims, or causes of action brought against the City of Dallas on account of same, and discharge any judgment or judgments that may be rendered against the City of Dallas in connection therewith. For purposes hereof, "Hazardous Substance" means the following: (a) any "hazardous substances" under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq., as amended; (b) any "hazardous substance" under the Texas Hazardous Substances Spill Prevention and Control Act, TEX. WATER CODE, Section 26.261 et seq., as amended; (c) petroleum or petroleum-based products (or any derivative or hazardous constituents thereof or additives thereto), including without limitation, fuel and lubricating oils; (d) any "hazardous chemicals" or "toxic chemicals" under the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq., as amended; (e) any "hazardous waste" under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., as amended; and (f) any "chemical substance" under the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq., as amended. References to particular acts or codifications in this definition include all past and future amendments thereto, as well as applicable rules and regulations as now or hereafter promulgated thereunder.

**SECTION 9.** That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall file a final replat of the adjoining properties prior to the issuance of any building permits affecting the tract of land abandoned and quitclaimed herein. Said replat, along with any other appropriate requirements of Dallas Development Code, shall maintain and confirm the public right-of-way being approximately 15' in width and abutting and running along the East most line of the abandonment area described in Exhibit A. This final replat shall be recorded by **GRANTEE** in the official real property records of the county in which the abandoned area is located after its approval by the City Plan Commission of the City of Dallas.

**SECTION 10.** That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall, immediately upon the passage of this ordinance, close, barricade and/or place signs in the area described in Exhibit A in accordance with detailed plans approved by the Director of Sustainable Development and Construction, while taking all appropriate steps to leave open and useable the remaining right-of-way, being approximately 15' in width and running along and abutting the East most line of the abandonment area described in Exhibit A. **GRANTEE's** responsibility for keeping the area described in Exhibit A closed, barricaded and/or signs in place shall continue until the street improvements and intersection returns are removed by **GRANTEE**, its successors and assigns, to the satisfaction of the Director of Sustainable Development and Construction.

**SECTION 11.** That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the official real property records of the county in which the abandonment area is located, which certified copy shall be delivered to the Director of Sustainable Development and Construction, or designee. Upon receipt of the monetary consideration set forth in Section 2 plus the fee for the publishing of this ordinance, which **GRANTEE** shall likewise pay, the Director of Sustainable Development and Construction or designee: (i) shall deliver to **GRANTEE** a certified copy of this ordinance; and (ii) is authorized to and shall prepare and deliver a **QUITCLAIM DEED** with regard to the area abandoned herein, to **GRANTEE** hereunder, same to be executed by the City Manager on behalf of the City of Dallas, attested by

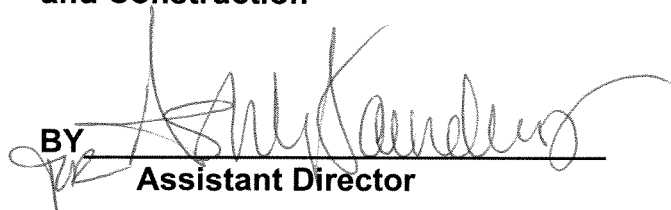
the City Secretary and approved as to form by the City Attorney. The Director of Sustainable Development and Construction, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

**SECTION 12.** That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

**APPROVED AS TO FORM:**  
**THOMAS P. PERKINS, JR.**  
City Attorney

**THERESA O'DONNELL**  
Director of Sustainable Development  
and Construction

BY   
Assistant City Attorney

BY   
Assistant Director

Passed JUN 27 2012.

28686 121656

# STREET EASEMENT ABANDONMENT

WILLIAM COOMBS SURVEY, ABSTRACT No. 290

DALLAS CITY BLOCK 7259

CITY OF DALLAS, DALLAS COUNTY, TEXAS

**EXHIBIT A**

BEING a 1.692 acre (73,689 square feet) tract of land situated in the WILLIAM COOMBS SURVEY, Abstract No. 290, in the City of Dallas, Dallas County, Texas, Dallas City Block 7259, created by and being a portion of a tract of land described as a street easement and shown on Exhibit E in a certified copy of partition, recorded in Volume 1778, Page 425, Deed Records, Dallas County, Texas (DRDCT) and being a portion of a tract of land described by deed to Austin International Ventures, Inc. recorded in Volume 95046, Page 01951 (DRDCT) and being more particularly described as follows;

COMMENCING at a 3/4 inch iron rod found (controlling monument) at the most northeasterly corner of said Austin International Ventures, Inc. tract, said point being found at the intersection of southerly right-of-way line of Duluth Street (80' right-of-way) and the westerly line of Block 13 of the West End Addition, an addition to the City of Dallas as recorded in Volume 95, Page 254, Map Records, Dallas County, Texas (MRDCT);

THENCE North 89 deg 54 min 34 sec West, along the southerly right-of-way line of said Duluth Street, a distance of 15.00 feet to a 1/2 inch iron rod set with a red plastic cap stamped "W.A.I." for the POINT OF BEGINNING;

THENCE South 00 deg 13 min 01 sec West, departing the southerly right-of-way line of said Duluth Street, over and across said Austin International Ventures, Inc. tract, a distance of 540.91 feet to a 1/2 inch iron rod set with a red plastic cap stamped "W.A.I.", 15.00 feet North 89 deg 54 min 01 sec West of a 1/2 inch iron rod found with a red plastic cap stamped "W.A.I." for the most southeasterly corner of said Austin International Ventures, Inc. tract;

THENCE North 89 deg 54 min 01 sec West, along the southerly line of said Austin International Ventures, Inc. tract a distance of 65.00 feet to a 1/2 inch iron rod set with a red plastic cap stamped "W.A.I." for corner;

THENCE North 00 deg 12 min 59 sec East, departing the southerly line of said Austin International Ventures, Inc. tract, a distance of 279.90 feet to a 1/2 inch iron rod set with a red plastic cap stamped "W.A.I." for corner;

THENCE North 89 deg 54 min 01 sec West, a distance of 518.33 feet to a 1/2 inch iron rod set with a red plastic cap stamped "W.A.I." for corner, said point being set in the westerly line of said Austin International Ventures, Inc. tract (Volume 95046, Page 01951) and in the easterly line of a tract of land described in deed to Austin International Ventures, Inc. recorded in Volume 95046, Page 01957, (DRDCT) from which a 3/4 inch iron rod found (controlling monument) for the southwest corner of a tract of land described to Austin International Ventures, Inc. as recorded under Instrument No. 200600132275, Official Public Records, Dallas County, Texas, bears South 53 deg 02 min 49 sec West, a distance of 278.65 feet;

(Continued on Sheet 2)

Bearings are based upon an on the ground survey performed in the field on the 21st day of November, 2006 utilizing a GPS (WGS84) measurement of North 00 deg 05 min 53 sec East (Deed Bearing North 00 deg 08 min 15 sec West) along the westerly line of a tract of land described in deed to Austin International Ventures, Inc. as recorded in Instrument No. 200600132275 (DRDCT).



**Winkelmann  
& Associates, Inc.**

CONSULTING CIVIL ENGINEERS ■ SURVEYORS  
8750 HILLCREST PLAZA DRIVE, SUITE 325 (972) 490-7090  
DALLAS, TEXAS 75230 (972) 490-7099 FAX  
Texas Engineers Registration No. 89  
Texas Surveyors No. 100866-00  
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Scale : N/A

Date : 09.13.2010

Dwg. File : 47710-ESMT-ABDN-STREET

Project No. : 47710



(For SPRG use only)

Reviewed by: *[Signature]*

Date: 05.21.2012

SPRG No. 2014

5/18/12

SHEET

**1  
OF  
5**

28686 121656

# STREET EASEMENT ABANDONMENT

WILLIAM COOMBS SURVEY, ABSTRACT No. 290

DALLAS CITY BLOCK 7259

CITY OF DALLAS, DALLAS COUNTY, TEXAS

**EXHIBIT A**

(Continued from Sheet 1)

THENCE North 42 deg 42 min 41 sec East along said easterly line of Austin International Ventures, Inc. tract (Volume 95046, Page 01957), a distance of 108.70 feet to a 1/2 inch iron rod set with a red plastic cap stamped "W.A.I." for corner; from which a 3/4 inch iron rod found (controlling monument), for the northwest corner of said Austin International Ventures, Inc. tract (Instrument No. 200600132275) bears N 71 deg 27 min 59 sec West, a distance of 312.00 feet;

THENCE departing said easterly line of Austin International Ventures, Inc. tract (Volume 95046, Page 01957) South 89 deg 54 min 01 sec East, a distance of 444.90 feet to a 1/2 inch iron rod set with a red plastic cap stamped "W.A.I." for corner;

THENCE North 00 deg 12 min 59 sec East, a distance of 181.00 feet to a 1/2 inch iron rod set with a red plastic cap stamped "W.A.I." for corner, said point being set in the southerly right-of-way line of said Duluth Street from which a PK nail found bears North 89 deg 54 min 34 sec West, a distance of 90.00 feet;

THENCE South 89 deg 54 min 34 sec East along the southerly right-of-way line of said Duluth Street, a distance of 65.00 feet to the POINT OF BEGINNING;

CONTAINING within these metes and bounds 1.692 acres or 73,689 square feet of land more or less. Bearings contained within this field note description are based upon an on the ground survey performed in the field on the 21st day of November, 2006 utilizing a GPS (WGS84) measurement of North 00deg 05 min 53 sec East (Deed Bearing North 00 deg 08 min 15 sec West) along the westerly line of a tract of land described in deed to Austin International Ventures, Inc. as recorded in Instrument No. 200600132275 (DRDCT).



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Texas Engineers Registration No. 89  
Texas Surveyors No. 100866-00  
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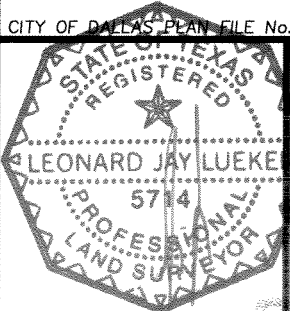
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Project No. : 47710

CITY OF DALLAS PLAN FILE No. \_\_\_\_\_



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Date: 05.21.2012

SPRG No. 2014

5/18/12

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## STREET EASEMENT ABANDONMENT

WILLIAM COOMBS SURVEY, ABSTRACT No. 290

DALLAS CITY BLOCK 7259

CITY OF DALLAS, DALLAS COUNTY, TEXAS

EXHIBIT A

POINT OF  
COMMENCING

DULUTH STREET

(80' RIGHT-OF-WAY)

1/2" CIRS

65.00'

S89°54'34"E

90.00'

N89°54'34"W

1/2" CIRS

3/4" IRF  
C.M.POINT OF  
BEGINNING

N89°54'34"W

15.00'

15.0'

181.00'

N00°12'59"E

65.0'

BLOCK 13, WEST END ADDITION  
VOLUME 95, PAGE 254, M.R.D.C.T.

S 00°13'01" W

MATCHLINE B

## LEGEND

IRF Iron Rod Found  
 CIRS Iron Rod Set w/ plastic cap "W.A.I."  
 CIRF Iron Rod Found w/ plastic cap "W.A.I."  
 C.M. Controlling Monument  
 D.R.D.C.T. Deed Records, Dallas County, Texas  
 M.R.D.C.T. Map Records, Dallas County, Texas  
 SQ. FT. Square Feet  
 INST. # Controlling Monument  
 O.P.R.D.C.T. Instrument Number  
 Official Public Records, Dallas County, Texas

AUSTIN INTERNATIONAL  
 VENTURES, INC.  
 VOLUME 95046, PAGE 01951  
 D.R.D.C.T.

AUSTIN INTERNATIONAL  
 VENTURES, INC.  
 VOLUME 95046, PAGE 01957,  
 D.R.D.C.T.



0' 30' 60'  
 Scale 1"=60'

S 89°54'01" E 444.90'

1/2" CIRS

STREET EASEMENT  
 VOLUME 1778, PAGE 425  
 D.R.D.C.T.  
 1.692 ACRES  
 (73,689 SQ. FT.)

N 89°54'01" W 518.33'  
 AUSTIN INTERNATIONAL VENTURES, INC.  
 VOLUME 95046, PAGE 01951  
 D.R.D.C.T.

1/2" CIRS

279.90'

N 00°12'59" E

Bearings are based upon an on the ground survey performed in the field on the 21st day of November, 2006 utilizing a GPS (WGS84) measurement of North 00 deg 05 min 53 sec East (Deed Bearing North 00 deg 08 min 15 sec West) along the westerly line of a tract of land described in deed to Austin International Ventures, Inc. as recorded in Instrument No. 200600132275 (DRDCT).



**Winkelmann  
 & Associates, Inc.**

CONSULTING CIVIL ENGINEERS ■ SURVEYORS  
 6750 HILLCREST PLAZA DRIVE, SUITE 325 (972) 490-7090  
 DALLAS, TEXAS 75230 (972) 490-7099 FAX  
 Texas Engineers Registration No. 89  
 Texas Surveyors No. 100895-00  
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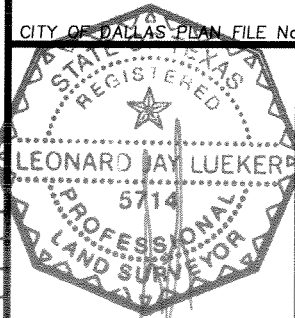
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Date : 09.13.2010

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Project No. : 47710

CITY OF DALLAS PLAN FILE No. S



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SHEET

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## STREET EASEMENT ABANDONMENT


WILLIAM COOMBS SURVEY, ABSTRACT No. 290

DALLAS CITY BLOCK 7259

CITY OF DALLAS, DALLAS COUNTY, TEXAS

EXHIBIT A

**LEGEND**

IRF Iron Rod Found  
 CIRS Iron Rod Set w/ plastic cap "W.A.I."  
 CIRF Iron Rod Found w/ plastic cap "W.A.I."  
 C.M. Controlling Monument  
 D.R.D.C.T. Deed Records, Dallas County, Texas  
 M.R.D.C.T. Map Records, Dallas County, Texas  
 SQ. FT. Square Feet  
 Controlling Monument  
 INST. # Instrument Number  
 O.P.R.D.C.T. Official Public Records, Dallas County, Texas

AUSTIN INTERNATIONAL VENTURES, INC.  
 VOLUME 95046, PAGE 01951  
 D.R.D.C.T.

MATCHLINE B

279.90'  
N 00°12'59" E

65.0'  
 STREET EASEMENT  
 VOLUME 1778, PAGE 425  
 D.R.D.C.T.  
 1.692 ACRES  
 (73,689 SQ. FT.)  
 15.0'

S 00°13'01" W  
 540.91'

7

6

5

1/2" CIRS

1/2" CIRS

N89°54'01"W

65.00'

N89°54'01"W  
 15.00'

1/2" CIRF

4

BLOCK 13

WEST END ADDITION

VOLUME 95, PAGE 254

M.R.D.C.T.

3

2

1

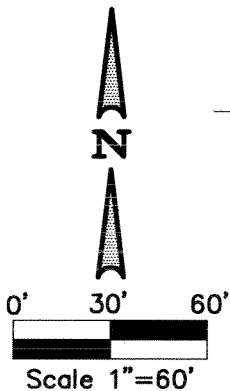
10' ALLEY

BLOCK 2  
 W.E. KLINE ADDITION  
 VOLUME 15, PAGE 55  
 M.R.D.C.T.

BORGER STREET  
 (80' RIGHT-OF-WAY)

AMOS STREET

(50' RIGHT-OF-WAY)



Bearings are based upon an on the ground survey performed in the field on the 21st day of November, 2006 utilizing a GPS (WGS84) measurement of North 00 deg 05 min 53 sec East (Deed Bearing North 00 deg 08 min 15 sec West) along the westerly line of a tract of land described in deed to Austin International Ventures, Inc. as recorded in Instrument No. 200600132275 (DRDCT).



**Winkelmann  
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 Texas Surveyors No. 100966-00  
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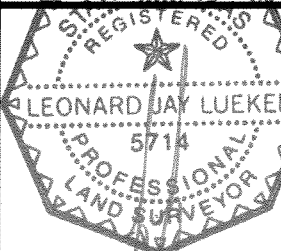
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CITY OF DALLAS, PLAN FILE No. S



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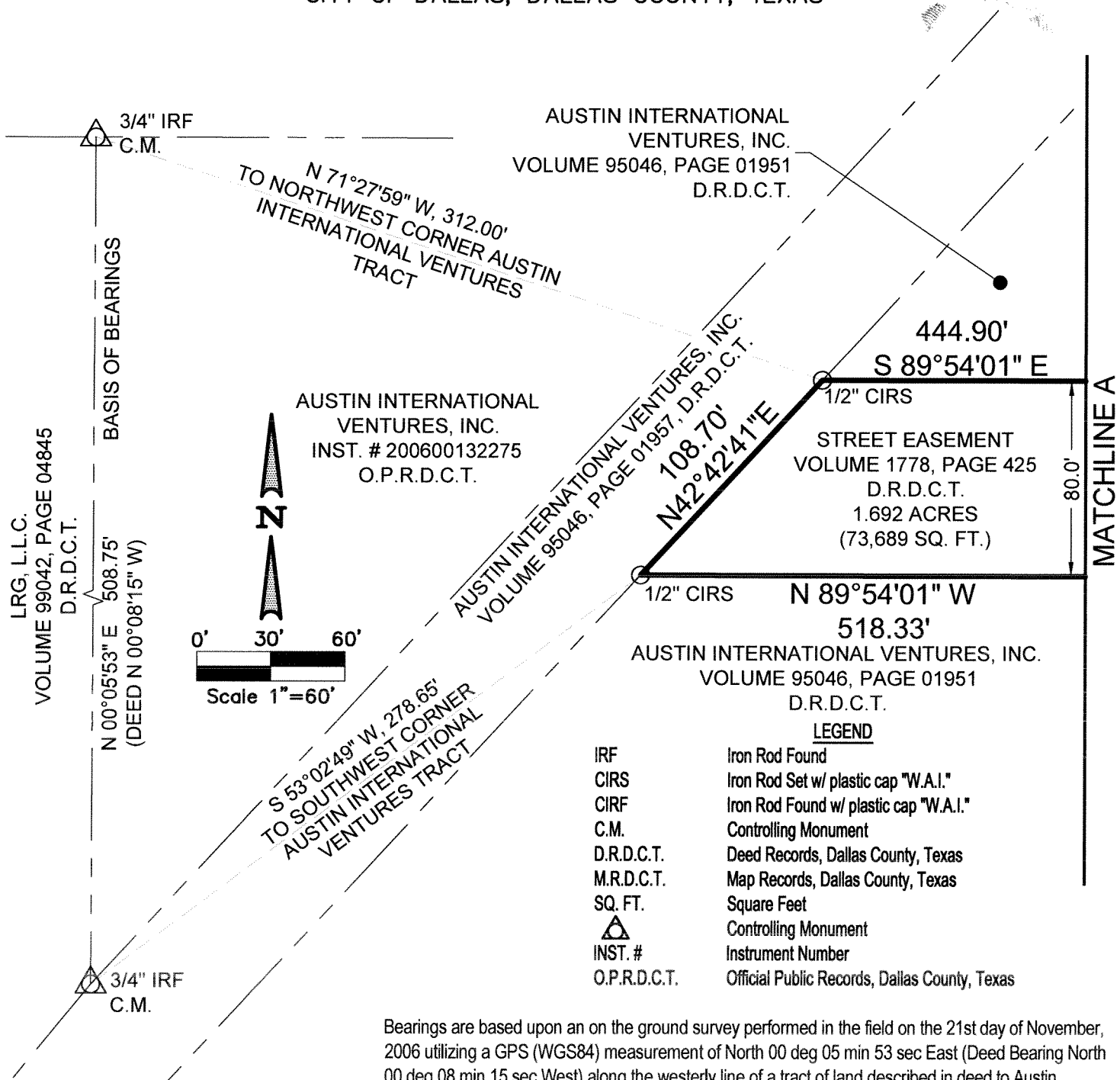
# STREET EASEMENT ABANDONMENT

WILLIAM COOMBS SURVEY, ABSTRACT No. 290

DALLAS CITY BLOCK 7259

CITY OF DALLAS, DALLAS COUNTY, TEXAS

**EXHIBIT A**



LEGEND	
IRF	Iron Rod Found
CIRS	Iron Rod Set w/ plastic cap "W.A.I."
CIRF	Iron Rod Found w/ plastic cap "W.A.I."
C.M.	Controlling Monument
D.R.D.C.T.	Deed Records, Dallas County, Texas
M.R.D.C.T.	Map Records, Dallas County, Texas
SQ. FT.	Square Feet
	Controlling Monument
INST. #	Instrument Number
O.P.R.D.C.T.	Official Public Records, Dallas County, Texas

Bearings are based upon an on the ground survey performed in the field on the 21st day of November, 2006 utilizing a GPS (WGS84) measurement of North 00 deg 05 min 53 sec East (Deed Bearing North 00 deg 08 min 15 sec West) along the westerly line of a tract of land described in deed to Austin International Ventures, Inc. as recorded in Instrument No. 200600132275 (DRDCT).

CITY OF DALLAS PLAN FILE No. S

**Winkelmann & Associates, Inc.**

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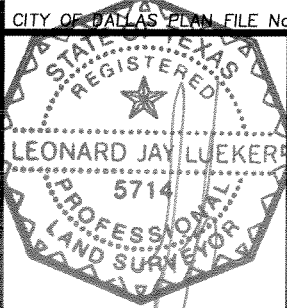
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Texas Surveyors No. 100868-00  
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Scale : 1"=60'

Date : 09.13.2010

Dwg. File : 47710-ESMT-ABDN-STREET

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Reviewed by:

Date: 05-21-2012

SPRG No. 2014

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**5**  
OF  
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## EXHIBIT B

### ADDITIONAL ABANDONMENT PROVISIONS

That as a condition hereof, this abandonment is subject to any utilities or communication facilities, including without limitation water and wastewater lines, gas lines, and storm sewers, ("Facilities") presently located within the abandoned area described in Exhibit "A", owned and/or operated by the City of Dallas or any utility or communications company, public or private, ("Utility") and to the rights of any Utility for the use of the abandoned area for its Facilities. It is the intent of the foregoing to confirm and maintain and there is hereby reserved and excepted unto the City of Dallas, and not abandoned or conveyed hereunder, an easement (to which this abandonment is made expressly subject) over, upon, under, through, in, and across the abandoned area for each Utility for its respective Facilities located therein at the time of this abandonment, together with the right to make any subsequent alterations, additions, expansions, upgrades or modifications to such Facilities as may, from time to time be deemed necessary or convenient by the Utility owning and/or operating same. No buildings, structures (above or below ground) or trees shall be constructed or placed within the abandoned area without written consent of each affected Utility. Each Utility shall have the full right to remove and keep removed all or part of any buildings, fences, trees, or other improvements or growths which in any way may endanger or interfere with the construction, maintenance or efficiency of its respective Facilities lying within the abandoned area and shall at all times have the full right of ingress and egress to or from and upon the abandoned area for the purposes of reconstructing, removing, relocating, inspecting, patrolling, maintaining, expanding, upgrading, and/or adding to all or part of its Facilities without the necessity at any time of procuring the permission of anyone. The easement reserved hereunder and the conditions and restrictions to which this abandonment is subject shall remain for the benefit of the applicable Utility and/or operators of the Facilities until said Facilities are removed and relocated from the abandoned area. The relocation, removal or adjustment of any or all such Facilities, if made necessary by GRANTEE'S (whether one or more natural persons or legal entities) use of the abandonment area, shall be at the expense of GRANTEE herein, or GRANTEE'S successors and assigns. Should GRANTEE'S relocation or removal of the Facilities require the obtaining of new easements, the acquisition of same shall be at the expense of GRANTEE, GRANTEE'S successors and assigns. If any of the Facilities (or relocations thereof) are allowed to remain on any part of the abandoned area, the easements and buildings restrictions provided herein shall remain thereon. Upon removal or relocation of all of the Facilities, any easements reserved or created herein relating to such removed or relocated Facilities shall terminate, and any building restrictions herein created shall cease.