

MSD 12

MSD 11
Cert 5

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. Michael F. Marcon, Vice President
InControl Technologies, Inc.
3845 FM 1960W
Houston, TX 77068

RE: Certification of Municipal Setting Designation Application for the Block 588
Condominium Development Property, 3110 Thomas Avenue, Dallas, TX
(MSDAPP012, MSD011)

Dear Mr. Marcon:

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 011

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 Block 588 Condominium Property, 3110 Thomas Avenue, 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.

Handwritten signature of Glenn Shankle in black ink.

Glenn Shankle
Executive Director
Texas Commission on Environmental Quality

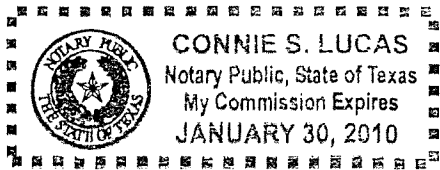
STATE OF TEXAS
TRAVIS COUNTY

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.

Handwritten signature of Connie S. Lucas in black ink.

Notary Public in and for the State of Texas



Notary without Bond

26163

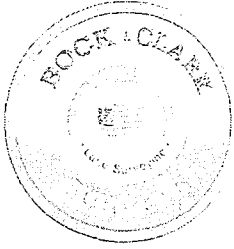


Exhibit A - Tract 1

FIELD NOTE DESCRIPTION

BEING a tract of land situated in the J. Grigsby Survey, Abstract No. 495, City of Dallas, Dallas County, Texas and being all of Lots 1, 2 and 3, the northwest 30 feet of Lots 4 and 7 and all of Lots 8, 9 and 10 in Block U/588 of Simpson & Clark's Addition, an addition to the City of Dallas, according to the Plat thereof recorded in Volume 85, Page 426 of the Map Records of Dallas County, Texas and being all of that tract of land as described in Special Warranty Deed to Post Apartments Homes, L.P. as recorded in Volume 97214, Page 3736, of the Deed Records of Dallas County, Texas and being all of Lot 1A, Block U/588, Lots of 588, an addition to the City of Dallas, according to the plat recorded in Volume 99089, Page 255 of the Deed Records of Dallas County, Texas and being more particularly described by metes and bounds as follows:

COMMENCING at a cut cross set in a brick walk at the Northerly corner of said Block 588 and being the intersection of the southeasterly right-of-way line of Thomas Avenue (50 foot right-of-way) with the southwesterly right-of-way line of Hugo Street (50 foot right-of-way) and being the intersection of a 10 foot by 10 foot right-of-way clip according to the aforesaid plat;

THENCE South 45° 00' 39" East, along the northeast line of said Block 588 and the southwesterly right-of-way line of said Hugo Street, a distance of 10.00 feet to a cut cross set in a brick walk at the northeasterly corner of said right-of-way clip, the POINT OF BEGINNING;

THENCE South 45° 00' 39" East, along the northeast line of said Block 588 and the southwesterly right-of-way line of said Hugo Street, a distance of 170.00 feet to a 5/8" iron found for the easterly corner of said Block 588;

THENCE South 44° 48' 41" West, departing the northeast line of said Block 588 and the southwesterly right-of-way line of said Hugo Street and along the southeast line of said Block 588, a distance of 284.00 feet to a cut cross set in a brick walk at the southerly corner of said Block 588 and being on the northeasterly right-of-way line of Ellis Street (25 foot right-of-way);

THENCE North 45° 00' 39" West, along the northeasterly right-of-way line of said Ellis Street and the southwesterly line of said Block 588, a distance of 180.00 feet to a cut cross set in concrete at the northeasterly right-of-way line of said Ellis Street and the southeasterly right-of-way line of the aforementioned Thomas Avenue;

THENCE North 44° 48' 41" East, along the southeasterly right-of-way line of said Thomas Avenue and the northwesterly line of said Block 588 a distance of 274.00 feet to a cut cross set in a brick walk at the westerly corner of the aforementioned 10 foot by 10 foot right-of-way clip;

THENCE North 89° 54' 01" East, along the said right-of-way clip, a distance of 14.12 feet to the POINT OF BEGINNING and containing 1.172 acres of land, more or less.

William S. Abraham
William S. Abraham R.P.L.S.
Texas Registration No. 2052

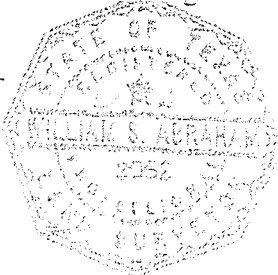
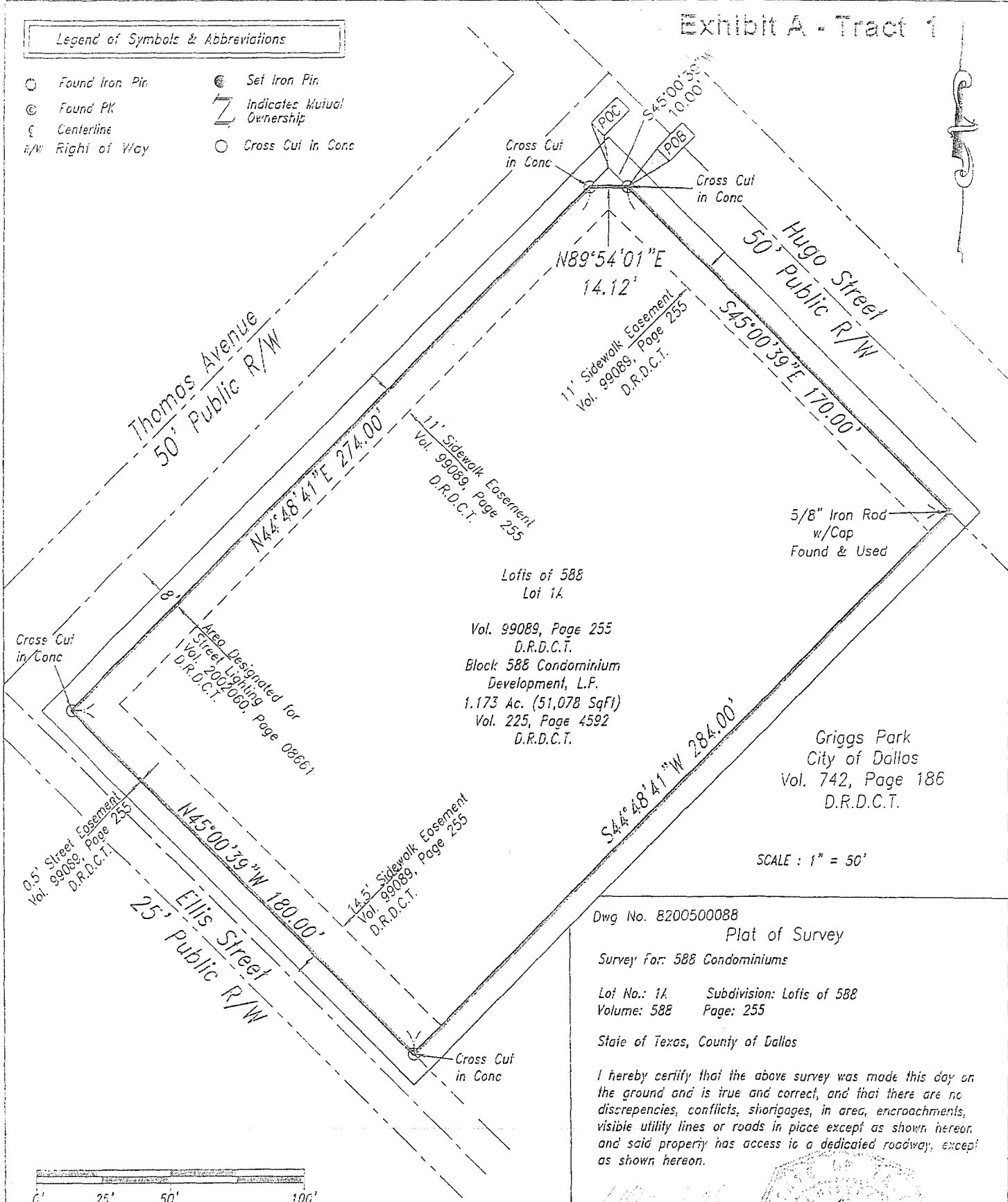


Exhibit A - Tract 1

Legend of Symbols & Abbreviations

- Found Iron Pin
- ⊙ Set Iron Pin
- ⊙ Found PK
- ⊙ Centerline
- R/W Right of Way
- ⊕ Indicates Mutual Ownership
- Cross Cut in Conc



Lofts of 588
Lot 1A

Vol. 99089, Page 255
D.R.D.C.T.
Block 588 Condominium
Development, L.F.
1.173 Ac. (51,078 SqFt)
Vol. 225, Page 4592
D.R.D.C.T.

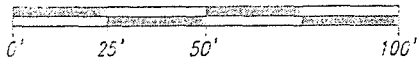
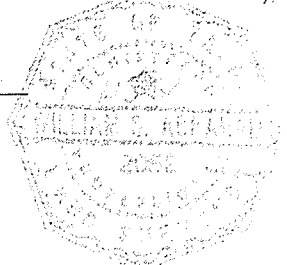
Griggs Park
City of Dallas
Vol. 742, Page 186
D.R.D.C.T.

SCALE : 1" = 50'

Dwg No. 8200500088
 Plat of Survey
 Survey For: 588 Condominiums
 Lot No.: 1A Subdivision: Lofts of 588
 Volume: 588 Page: 255
 State of Texas, County of Dallas

I hereby certify that the above survey was made this day on the ground and is true and correct, and that there are no discrepancies, conflicts, shortages, in area, encroachments, visible utility lines or roads in place except as shown hereon, and said property has access to a dedicated roadway, except as shown hereon.

William S. Abraham
 William S. Abraham
 R.P.L.S. No. 2052



Bock & Clark Surveying
 1823 Fort View Road Ste. 203
 Austin, TX 78704
 Ph- (512)707-9000
 Fx- (512)707-9900

26168



Exhibit A - Tract 2

FIELD NOTE DESCRIPTION

BEING Hugo Street, Thomas Avenue, and Ellis Street situated in the J. Grigsby Survey, Abstract No. 495, City of Dallas, Dallas County, Texas and being Block U/588 of Simpson & Clark's Addition, an addition to the City of Dallas, according to the Plat thereof recorded in Volume 85, Page 426 of the Map Records of Dallas County, Texas, being more particularly described by metes and bounds as follows:

COMMENCING at a cut cross found in a brick walk at the Northerly corner of said Block 588 and being the intersection of the southeasterly right-of-way line of Thomas Avenue (50 foot right-of-way) with the southwesterly right-of-way line of Hugo Street (50 foot right-of-way) and being the intersection of a 10 foot by 10 foot right-of-way clip according to the aforesaid plat;

THENCE South $45^{\circ} 00' 39''$ East, along the northeast line of said Block 588 and the southwesterly right-of-way line of said Hugo Street, a distance of 10.00 feet to a cut cross set in a brick walk at the northeasterly corner of said right-of-way clip, the POINT OF BEGINNING;

THENCE South $45^{\circ} 00' 39''$ East, along the northeast line of said Block 588 and the southwesterly right-of-way line of said Hugo Street, a distance of 170.00 feet to a $5/8''$ iron found for the easterly corner of said Block 588;

THENCE North $44^{\circ} 48' 41''$ East, departing the northeast line of said Block 588 and the southwesterly right-of-way line of said Hugo Street Block 588, a distance of 50.00 feet to a point on the northeasterly right-of-way line of Hugo Street (50 foot right-of-way);

THENCE North $45^{\circ} 00' 39''$ West, along the northeasterly right-of-way line of said Hugo Street, a distance of 180.00 feet pass the southeasterly right-of-way line of Thomas Avenue (50 foot right-of-way), a total distance of 230.00 to a point on the northwesterly right-of-way line of Thomas Avenue;

THENCE South $44^{\circ} 48' 41''$ West, along the northwesterly right-of-line of Thomas Avenue, at 50.00 feet pass the southwesterly right-of-way of Hugo Street, at 334.00 feet pass the northeasterly right-of-line of Ellis Street (a 25 foot right-of-way), a total distance of 359.00 feet to a point on the southwesterly line of Ellis Street;

THENCE South $45^{\circ} 00' 39''$ East, along the southwesterly right-of-way line of Ellis Street, at 50.00 feet pass the southeasterly right-of-way line of Thomas Avenue, a total distance of 230.00 feet to a point;

THENCE North $44^{\circ} 48' 41''$ East to a cut cross found on a brick walk on the northeasterly right-of-way line of Ellis Street at the southerly corner of Block 588;

THENCE North $45^{\circ} 00' 39''$ West, along the northeasterly right-of-way line of Ellis, the southwesterly line of Block 588, a distance of 180.00 feet to a cut cross found in concrete on the southeasterly right-of-way line of Thomas Avenue at the westerly corner of Block 588;

THENCE North $44^{\circ} 48' 41''$ East, along the southeasterly right-of-way line of said Thomas Avenue and the northwesterly line of said Block 588 a distance of 274.00 feet to a cut cross found in a brick walk at the westerly corner of the aforementioned 10 foot by 10 foot right-of-way clip;

97 27 11 2

Exhibit A - Tract 2

THENCE North 89° 54' 01" East, along the said right-of-way clip, a distance of 14.12 feet to the POINT OF BEGINNING.

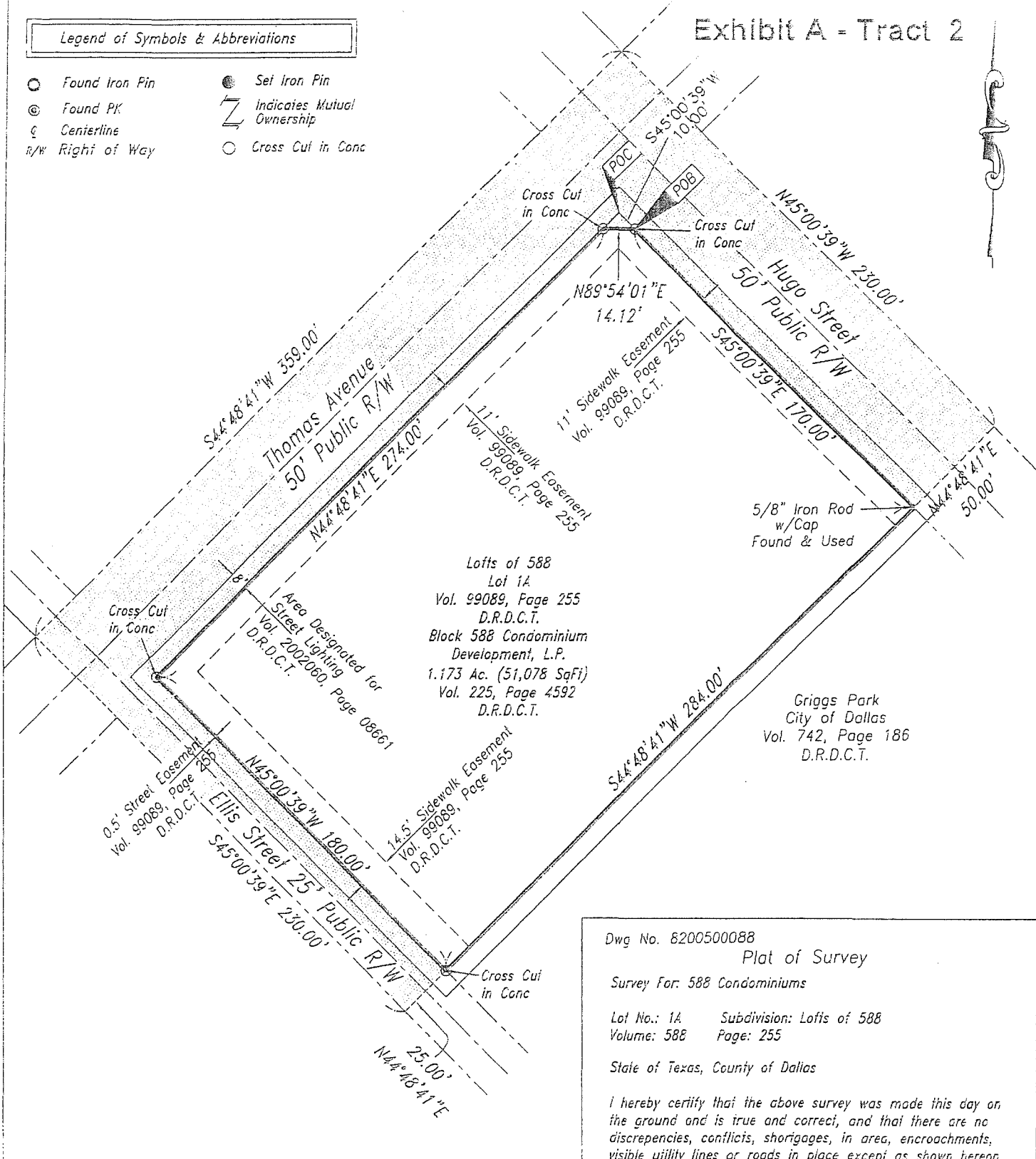
William S. Abraham
William S. Abraham R.P.L.S.
Texas Registration No. 2052
Date: August 18, 2005



Exhibit A - Tract 2

Legend of Symbols & Abbreviations

- Found Iron Pin
- Set Iron Pin
- ⊙ Found PK
- ⊕ Indicates Mutual Ownership
- ⊖ Centerline
- ⊗ R/W Right of Way
- Cross Cut in Conc



Lofts of 588
 Lot 1A
 Vol. 99089, Page 255
 D.R.D.C.T.
 Block 588 Condominium
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Griggs Park
 City of Dallas
 Vol. 742, Page 186
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Dwg No. 8200500088
 Plat of Survey

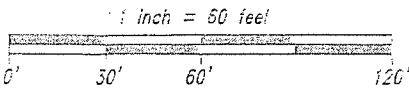
Survey For: 588 Condominiums

Lot No.: 1A Subdivision: Lofts of 588
 Volume: 588 Page: 255

State of Texas, County of Dallas

I hereby certify that the above survey was made this day on the ground and is true and correct, and that there are no discrepancies, conflicts, shortages, in area, encroachments, visible utility lines or roads in place except as shown hereon and said property has access to a dedicated roadway, except as shown hereon.

William S. Abraham
 William S. Abraham
 F.P.S. No. 2052



Bock & Clark Surveying
 1823 Fort View Road Ste. 203
 Austin, TX 78704
 Ph - (512) 707-9000
 Fx - (512) 707-9900

B



Municipal Setting Designation Application Form

TCEQ Office Use Only:	Date Add. Info Req. 3/10/06
Application No: M5AABP012	Date Add. Info Rec'd 5/8/06
Date Received: 01/13/06	Date Certified: 5/19/06
	Date Denied: / /

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.tamu.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.tamu.edu/tpepp/txpopest.php .)	<input type="radio"/> Yes	<input type="radio"/> No ¹
Municipality name: Dallas	Population: 1,211,437	
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. Michael F. Marcon		
Title: Vice President		
Company: InControl Technologies, Inc.		
Mailing Address: 3845 FM 1960W		
City: Houston	State: Texas	Zip: 77068
Telephone: 281 / 580-8892	Telefax: 281 / 580-8853	
E-mail Address: [REDACTED]		
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 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 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. None.		
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 / 25 / 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):

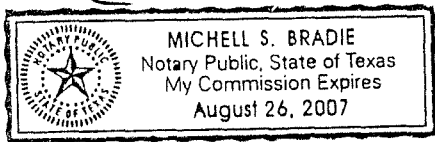
- The MSD eligibility criteria of THSC §361.803 are satisfied.
- True and accurate copies of all documents demonstrating that the MSD eligibility criteria provided by THSC §361.803 have been satisfied and are included with the application.
- A true and accurate copy of a legal description of the proposed 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.

Michael F. Marcon
Applicant Signature

6/1/05
Date

Before me Michelle S. Bradie the undersigned authority, on this day personally appeared
Name of Notary
MICHAEL F. MARCON and signed this Municipal Setting Designation Application.
Name of Applicant

Sworn, subscribed and signed before me in the County of Harris, State of Tx, on the 01/05
day of June, this month of JUNE, 2005



Michelle S. Bradie