

POLICIES AND PROCEDURES FOR REQUESTING STREET OR ALLEY VACATIONS

City of Austin
Office of Real Estate Services
Effective: September 8, 2014

Please mark and include this checklist to insure that all materials are submitted, in order to help expedite your request:

_____ Please verify and ensure that the area to be vacated lies within the City’s jurisdiction. **The vacation application fee is non-refundable** once the application is processed.

_____ If your property is served by Pedernales Electric Cooperative, they require an additional \$300 application review fee.

_____ In most cases, S.M.A.R.T. Housing Projects are ineligible for vacation application fee waivers. If you believe your project to be eligible for application fee waivers, please provide a copy of your S.M.A.R.T. Housing Certification (Neighborhood Housing 4-10-07) for consideration.

_____ If you are submitting your vacation request in conjunction with a commercial/residential development project, a site plan should already be submitted prior to submitting your vacation request. Some vacation application reviewers will postpone reviewing your request until the site plan has been submitted.

_____ City Council adopted the Imagine Austin Comprehensive Plan in 2012, establishing Priority Programs and policy directives which direct the growth and development of the City. Applicants should be aware that requests for right-of-way vacations are reviewed not only for compliance with City Code, but also within the context of the Priority Programs and policy directives set forth in the Imagine Austin Comprehensive Plan.

It is strongly recommended that applicants review Chapter 4 of the Imagine Austin Comprehensive Plan (“Shaping Austin”), and be prepared to demonstrate how a proposed vacation will support the objectives stated therein. The Priority Programs (as listed below) can also be found on page 186 of the Imagine Austin Plan:

1. Invest in a compact and connected Austin.
2. Sustainably manage our water resources.
3. Continue to grow Austin’s economy by investing in our workforce, education systems, entrepreneurs, and local businesses.
4. Use green infrastructure to protect environmentally sensitive areas and integrate nature into the City.
5. Grow and invest in Austin’s creative economy.
6. Develop and maintain household affordability throughout Austin.
7. Create a Healthy Austin Program.

_____ If your requested alley vacation lies within the Downtown Austin Plan (DAP) area, please read below. (DAP area boundaries: East of Lamar Boulevard, west of IH-35, north of Lady Bird Lake and south of Martin Luther King Boulevard).

According to the City Council-adopted Downtown Austin Plan (DAP), alleys within these boundaries (including the Rainey Street District) shall not be vacated unless specific criteria are met. Here is the text from the DAP:

The City should not permit the closure of alleys, as they provide an important service function. Vacation of alleys should only be allowed if equivalent off -street service facilities

are provided, and where such a vacation does not result in a need for on-street servicing/loading. (See TP-1.3.)

TP-1.3: Maintain alleys as the principal means of loading, servicing and parking access.

Downtown is fortunate to have a comprehensive system of mid-block alleys that provide rear service access to most properties. These alleys relieve pressure on the streets, allowing them to function for pedestrian, bicycle and vehicular circulation. However, alleys are often congested with dumpsters, power poles and even above grade grease traps that prevent them from functioning properly. The following policies are aimed at preserving and enhancing alleys, and improving their efficiency as both service corridors and for access and egress to parking within a development:

- Vacation or abandonment of alleys should be avoided, and occur only in special circumstances where equivalent off -street service facilities are provided (e.g., within a full-block development), and where such vacation does not result in a need for on-street servicing/loading.
- All development abutting an alley should be required to use alleys for loading, servicing and trash collection.
- When at all possible, primary or secondary access and egress to and from onsite parking should be taken from the alley. This will be more possible once alleys become less cluttered with dumpsters and other obstacles.

Please contact Jorge Rousselin at (512) 974-2975 for further information.

_____ **Provide a transmittal letter explaining in detail the reason for the vacation,** and answering the following questions:

1. Is this a residential or commercial project?
2. How was the area to be vacated dedicated? By plat or by separate instrument?
3. Did the City purchase the area to be vacated? (i.e., by Street Deed)
4. Are both the area to be vacated and your property in the same “subdivision”? (They must both be in the same subdivision to be eligible.)
5. Is the area to be vacated functional right-of-way, or is it only dedicated on paper?
6. Are there any utility lines within the area to be vacated? If yes, what are your plans for the utilities? Applicants should be advised that easements will be retained to protect existing utilities, even if utility relocation is proposed. Also be advised that no structures may be built on, over or under the easements without a license agreement, insurance, and annual fee.
7. How do you plan to develop the area to be vacated?
8. Has a site plan been submitted on your project?
9. Is your project a Unified Development?
10. Is your project a S.M.A.R.T. Housing Project?
11. When do you anticipate starting construction of the development?
12. What is the current zoning on the adjacent properties?
13. What is the current status of the adjacent properties?
14. What type of parking facilities currently exist?
15. Will your parking requirements increase with the expansion?
16. How will the increase be handled?
17. Have any agreements or easements been executed with adjacent landowner(s) or in draft form? If yes, please include this in your letter and provide us with a copy.
18. Does the area to be vacated lie within the Austin Downtown Plan (DAP)? Does it meet DAP criteria?
19. Does the area to be vacated lie within UT boundaries: East of Lamar Boulevard, west of IH-35, north of Martin Luther King Boulevard, and south of 45th Street?
20. Does the proposed vacation support the Priority Programs and policy directives set forth in the Imagine Austin Comprehensive Plan? If so, how?

_____ Provide a fully completed application. (If any sections of the application do not apply, simply mark N/A.)

_____ Parcel ID number information can be found on your tax bill, or by calling the Travis County

Appraisal District at (512) 834-9138.

- _____ Landowners are entitled to half the street/alley adjacent to their property. If all landowners adjacent to the area to be vacated join in the application, all must appear on the application.
- _____ If an adjacent landowner relinquishes their rights to an area to be vacated, we must have a letter from the landowner stating that they relinquish their rights at the time of submittal. **Prior to submitting a request for Council approval, quitclaim deed(s) between the parties must be executed and delivered to the City of Austin.**
- _____ If a landowner is a commercial entity and tenants occupy the premises, we require a list of all tenant names and addresses for public notification.
- _____ Provide a \$1,000.00 non-refundable processing fee, payable to “City of Austin”. If paying by personal check, please include date of birth and driver’s license number on the check. This fee was established by Ordinance No. 910110-J (Section 13-1-952) to be paid by all applicants, including governmental entities.
- _____ If the area to be vacated was dedicated and recorded by separate instrument, a copy of said instrument must accompany the application.
- _____ Instructions for Surveyor (see **EXHIBIT A**). 3-D surveys are required for aerial and subsurface vacations.
- _____ Provide copies of any agreements or easements that have either been executed with adjacent landowner(s), or in draft form to be executed.
- _____ Provide a copy of the Subdivision Plat including Plat Notes.
- _____ Provide a location map.
- _____ Provide landowner information, including a copy of the Deed (i.e. Warranty Deed, Special Warranty Deed, General Warranty Deed).

NOTE: The City of Austin will no longer place files on hold indefinitely. Inactive files will be closed and the application fee will be retained by the City if deadlines are not met. These applications shall be considered null and void.

Please schedule an appointment to discuss your vacation request. Appointments may be scheduled for between the hours of 10 a.m. and 4:00 p.m. Please contact:

Eric Hammack, (512) 974-7079, or
Betty Nguyen, (512) 974-7196
landmanagement@austintexas.gov

Submit all applications to:

City of Austin
Office of Real Estate Services
505 Barton Springs Road, Suite 1350
Austin, Texas 78704
Attn: Land Management Division

VACATION POLICIES & PROCEDURES
(Subject to Change)

STAKEHOLDER REVIEW AND PUBLIC NOTICE PROCESS:

- **Review.** Upon City receipt of a complete Right-of-Way Vacation application, your request and materials will be distributed to City departments and franchise holders for a two-week review period. If a site plan has not been submitted prior to submitting your request, some reviewers may postpone reviewing your request until it has been submitted.
- **Negative Comments.** Applicant will be notified immediately to clear any negative reviewer comment(s) to a YES.
- **Public Notice.** 1) A certified public notice of your intent to vacate the designated area will be mailed to all property owners and homeowner's associations (HOA) located within 300 feet of that area. [This public notice is typically processed during the review process, but is subject to change if there are negative comments to be cleared.] 2) Property owners and HOA have ten days from the date of mailing to register any objections. 3) Received objections will be forwarded to Applicant immediately. 4) Applicants are responsible for directly contacting individuals to resolve their objections. 5) City Council will receive a copy of any unresolved objections before considering the vacation for approval.
- **Deadlines on Outstanding Comments or Objections.** Upon receiving comments from the final reviewer(s), Applicant is given a four-week deadline to clear any outstanding negative comments or objections. If an extension is required, a request must be provided to the City in writing. **If Applicant's response is not received by this deadline, the file will be automatically closed, the application will be considered null and void, and the application fee will be retained by the City.**
- **Approvals with Conditions.** If a reviewer places a condition on the vacation request (e.g., a water line must be built and accepted by the City before the vacation will be approved), Applicant must provide in writing their acceptance of the requirement. The Deed and check for appraised value will be held in escrow at a title company of your choice until all conditions have been met. Please contact your title company of choice and provide us with the name of said title company and the email address and phone number of the escrow agent, and City staff will work directly with them. The Law Department will review the Escrow Agreement and may add additional information. The process will then continue as detailed below.

COMMISSION REVIEW AND APPROVAL PROCESS:

- **Director Approval.** The Director of Public Works reviews and must approve all vacation requests before they are forwarded to the required City Boards and Commissions.
- **Design Commission.** Ordinance No. 20100805-028 requires the review of all alley vacation requests within the downtown area by the Design Commission. The Design Commission regularly meets on the **fourth Monday** of each month. Please contact **Jorge Rousselin at (512) 974-2975** as soon as possible to schedule your item. You may review the City's Urban Design Guidelines at:
http://www.austintexas.gov/sites/default/files/files/Boards_and_Commissions/Design_Commission_urban_design_guidelines_for_austin.pdf
The Commission will review your request and make a recommendation at their regularly scheduled meeting. After your project has been approved, a copy of the approval will be sent to you and to our office.

- **Downtown Commission.** Ordinance No. 20100805-028 requires the review of all alley vacation requests within the downtown area by the Downtown Commission. The Downtown Commission regularly meets on the **third Monday** of each month. Please contact **Mike Knox at 974-6415** as soon as possible to schedule your item. The Commission will review your request and make a recommendation. After your project has been approved, a copy of the approval will be sent to you and to our office.
- **Planning Commission *or* Zoning and Platting Commission.** After all negative comments and/or outstanding issues with your application have been resolved and the review process is complete, our office will schedule your item on the agenda for the next available meeting of whichever of these Commissions is determined appropriate. The Planning Commission meets on the **first and third Tuesday** of each month. The Zoning and Planning Commission (ZAP) meets on the **second and fourth Tuesday** of each month. Applicants are required to attend this meeting to answer any questions that arise regarding your project.
- **Urban Transportation Commission.** After all negative comments and/or outstanding issues with your application have been resolved and the review process is complete, our office will schedule your item on the agenda for the next available meeting of the Urban Transportation Commission (UTC). UTC regularly meets on the **second Tuesday** of each month. All Applicants are required to give a presentation to the UTC.

APPRAISAL:

- **Appraisal.** The area to be vacated will be appraised by a third party independent appraiser after all designated Commissions have approved your vacation request and authorization has been given by the applicant to proceed. The appraisal process may take up to 90 days. The appraised value will be provided to the applicant and is considered good for six months.
- **Retaining of Easements.** If a reviewer has required that the area to be vacated remain an easement due to existing utilities or another public need, the appraiser will consider these rights retained by the City in assessing fair market value. At some later date after a completed vacation, the property owner may apply for a release of this easement(s), provided that existing utility lines are relocated at the owner's expense. If the owner wishes to dedicate an easement to the City as an alternative to the City's retaining an easement over the entire vacated area, then the owner is ineligible for the consideration by the appraiser of any rights retained by the City. *(Please refer to Exhibit B for dedication requirements.)*
- **Appraisal of Alley Vacations in the Downtown Area.** Due to the number of Commission reviews required for alley vacations in the Downtown Area, we will order the appraisal after the second review by the Design Commission. All other information provided above still applies.

SCHEDULE FOR CITY COUNCIL ACTION:

- **Council Action.** Requests for Council Action on any item may require scheduling five weeks in advance of the designated City Council meeting.
- **Dedications.** All dedication documents require a Release of Lien or Consent of Lienholder, if applicable, before a Request for Council Action is submitted for scheduling.
- **Relinquishments.** If an adjacent landowner relinquishes their rights to the area to be vacated, our office must receive the executed Quitclaim Deed(s) between the parties, if applicable, before a Request for Council Action is submitted for scheduling.
- **Appraised Value.** Our office must receive a certified check in the amount of the appraised value of the area to be vacated before a Request for Council Action is submitted for

scheduling. **The check will be deposited into a balance sheet account and will remain in this account until Council approves the vacation. Should your request be denied by Council, a refund will be issued.**

- **Escrow Agreement with Title Company.** Upon notification to the Applicant by our office regarding appraised value, the applicant/owner should deposit a check for the appraised value with the title company. Once our office has received a copy of the agreement confirming this deposit, we will schedule a Request for Council Action at an upcoming meeting.

COUNCIL APPROVAL:

An executed City Ordinance becomes effective eleven days after the date of Council approval.

- After our office receives a certified copy of the executed Ordinance from the Office of the City Clerk, a Deed Without Warranty will be prepared by staff and executed by the Officer of Real Estate Services. After execution, the Deed must be recorded with the County Clerk of the appropriate county. Applicant is responsible for and shall incur all costs associated with the recording of this and any related documents. The submitted appraised value will be transferred from the balance sheet account to our revenue account.
- **Council Approval with Escrow Agreement.** After our office receives a certified copy of the executed Ordinance from the Office of the City Clerk, the Deed Without Warranty will be prepared by staff and executed by the Officer of Real Estate Services. Upon execution of the Deed, both this document and the Escrow Agreement will be sent to the title company to be held in escrow until all requirements for vacation have been met. Once these requirements have been met, a letter of instruction will be sent instructing the escrow agent that both documents can be recorded only after payment has been received by our office.
- **Council Denial.** If the vacation request is denied by City Council, a refund for the appraised value paid to the City will be issued.

APPLICATION FOR STREET OR ALLEY VACATION

File No. _____
Department Use Only

DATE: _____
Department Use Only

TYPE OF VACATION

Type of Vacation: Street: _____; Alley: _____; ROW _____ Hundred Block: _____
Name of Street/Alley/ROW: _____ Is it constructed: Yes No
Property address: _____
Purpose of vacation: _____

PROPERTY DESCRIPTION ADJACENT TO AREA TO BE VACATED

Parcel #: _____
Survey & Abstract No.: _____
Lot(s): _____ Block: _____ Outlot: _____
Subdivision Name: _____
Plat Book _____ Page Number _____ Document Number _____

Neighborhood Association Name: _____
Address including zip code: _____

RELATED CASES

	FILE NUMBERS
Existing Site Plan (circle one): YES / NO	_____
Subdivision: Case (circle one): YES / NO	_____
Zoning Case (circle one): YES / NO	_____

PROJECT NAME, if applicable:

Name of Development Project: _____
Is this a S.M.A.R.T. Housing Project (circle one): YES / NO
Is this within the Downtown Austin Plan Boundaries (circle one): YES / NO

OWNER INFORMATION

Name: _____ (as shown on Deed)
Address: _____ Phone: (____) _____ Fax No.: (____) _____
City: _____ County: _____ State: _____ Zip Code: _____
Contact Person/Title: _____ Cell Phone: (____) _____
Email Address: _____
(If multiple owners are joining in this request, complete names and addresses for each must be attached.)

APPLICANT INFORMATION

Name: _____
Firm Name: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Office No.: (____) _____ Cell No.: (____) _____ Fax No.: (____) _____
EMAIL ADDRESS: _____

The undersigned Landowner/Applicant understands: **1)** This application will be handled in accordance with standard City policies and procedures. **2)** No action will be taken without (a) payment of the nonrefundable application fee, or (b) necessary documentation. **3)** The application and fee in no way obligate the City to vacate the subject area. **4) All documents** related to this transaction and a **certified check** for the appraised value must be delivered to the City of Austin prior to placing the item on the Council Agenda for final approval.

Signed By: _____
Landowner/Applicant

EXAMPLE

APPLICATION FOR STREET OR ALLEY VACATION

File No. _____
Department Use Only

DATE: _____
Department Use Only

TYPE OF VACATION

Type of Vacation: Street: X; Alley: _____; ROW _____ Hundred Block: 300
Name of Street/Alley: Brazos Street between 3rd & 4th Streets. Is it constructed: Yes No
Property address: 310 Brazos
Purpose of vacation: Construction of New Condominium Development

PROPERTY DESCRIPTION OF AREA TO BE VACATED

Parcel #: 08-0800-1012
Survey & Abstract No. N/A
Lot(s): 1 and 2 Block: 68 Outlot: N/A
Subdivision Name: Original City of Austin
Plat Book: 293 Page Number: 03 Document Number: 20031102941

Neighborhood Association Name: Tanglewood Forest
Address including zip code: 2416 Piping Rock, Austin, TX. 78704

RELATED CASES

	FILE NUMBERS
Existing Site Plan (circle one): <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO	SP-00-0000
Subdivision: Case (circle one): YES / <input checked="" type="checkbox"/> NO	N/A
Zoning Case (circle one): YES / <input checked="" type="checkbox"/> NO	N/A

PROJECT NAME, if applicable:

Name of Development Project: The Vista at Brownlee Creek
Is this a S.M.A.R.T. Housing Project (circle one): YES / NO
Is this within the Downtown Austin Plan Boundaries (circle one): YES / NO

OWNER INFORMATION

Name: Jane's Investments, LP (as shown on Deed)
Address: 1234 Browning St. Office No.: (512) 555-5555 Cell No.: (512) 555-5551
City: Austin County: Travis State: TX Zip: 78745
Contact Person/Title: Jane Doe Cell No.: (512) 548-2435
Email address: jinvest@juno.com
(If multiple owners are joining in this request, complete names and addresses for each must be attached.)

APPLICANT INFORMATION

Name: Joe Freebird
Firm Name: Freebird Consulting, Inc.
Address: 3456 34th Street
City: Austin State: TX Zip: 78745
Office No.: Phone: (512) 555-5553 Cell No.: (512) 784-9832 Fax No.: (512) 555-5554
EMAIL ADDRESS: jfreebird@austin.rr.com

The undersigned Landowner/Applicant understands: **1)** This application will be handled in accordance with standard City policies and procedures. **2)** No action will be taken without (a) payment of the nonrefundable application fee, or (b) necessary documentation. **3)** The application and fee in no way obligate the City to vacate the subject area. **4) All documents** related to this transaction and a **certified check** for the appraised value must be delivered to the City of Austin prior to placing the item on the Council Agenda for final approval.

Signed By: _____/S/
Landowner/Applicant

EXHIBIT "A"

INSTRUCTIONS FOR SURVEYORS

STREET/ALLEY/RIGHT-OF-WAY VACATION DESCRIPTIONS

It is the responsibility of the owner and/or applicant for the vacation request to provide the surveyor with the following guidelines and requirements. Copies of the application for street/alley/right-of-way vacations, including these guidelines, are available on the City of Austin website: <http://www.austintexas.gov/realestate>

Survey Information:

An original survey (**field notes and sketch**) must be prepared, signed ("**blue ink**") and sealed by a registered surveyor following these guidelines:

- 1) Prepare on 8½" x 11" white bond paper.
- 2) Metes and bounds description should be in accordance with current City of Austin Field Note Guidelines of the area to be vacated. **A copy is available upon request.**
- 3) Include a sketch of the area to be vacated as a whole.
- 4) If the area being vacated was dedicated and recorded by separate instrument, the volume and page must be reflected on both the sketch and metes and bounds description.
- 5) If all adjacent landowners wish to purchase their respective portions, we will need separate descriptions and sketches for each landowner before *appraisals are ordered*.

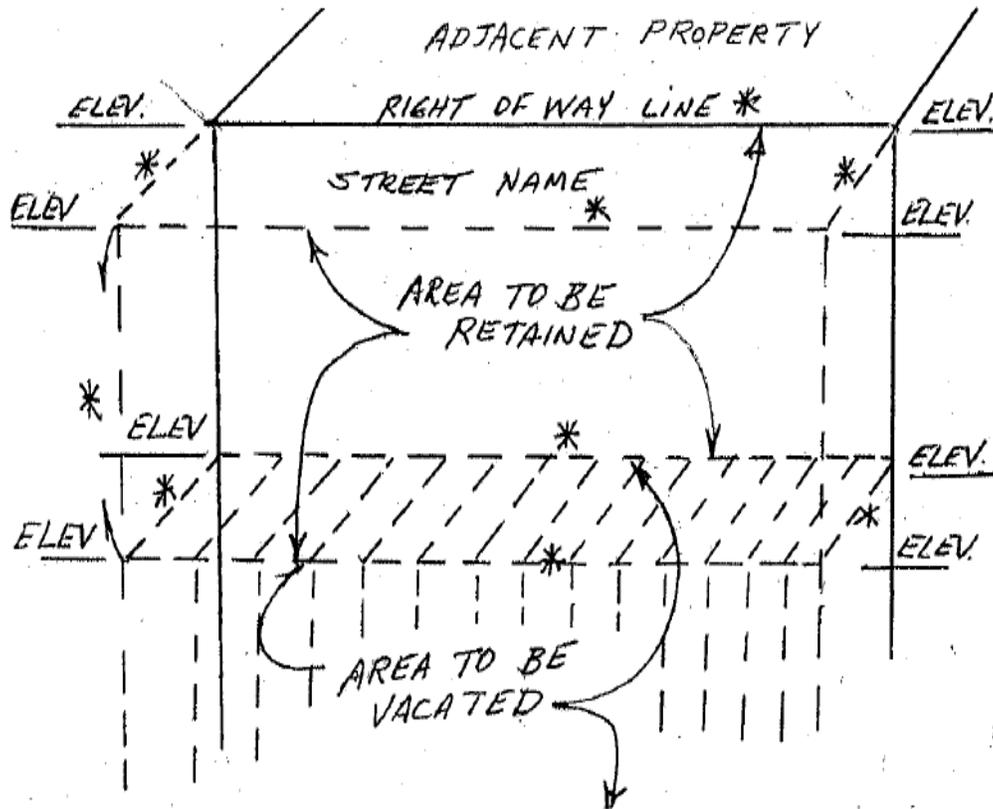
Aerial and Subsurface Vacations:

Street right-of-way extends above the ground level and below the ground level. While somewhat uncommon it is possible to define by legal description an area of aerial or subterranean space above or below which the local government could relinquish the public's right in the right-of-way (above or below a certain elevation within the right-of-way).

In order to define this area without ambiguity **both a horizontal and vertical exhibit is required**. It is a three dimensional space essentially without a height above or depth below limitation unless stipulated. A universal vertical datum would also be required with area benchmarks referenced. In the case of Austin, Texas, this would be based on the North American Vertical Datum of 1988 - NAVD 88 (Geoid 09), the current model. The elevations shown on the sketch must be reproducible now and into the future.

In order to define the area above or below certain elevations, **a profile exhibit is required in addition to the horizontal exhibit (sketch to accompany field notes)**. Below is an example of a vertical component exhibit defining an area below street level which would meet these conditions and requirements. The sketch for each application will obviously have to be customized for the given situation.

Example of Sketch for Aerial and Subsurface Vacations:



Notes:

1. B. M. Notes
2. Vertical Datum details
3. Lines in ROW are perpendicular to centerline or radial to curve
4. Distances and directions on all lines (^{*})

ALL SURVEY DOCUMENTS PROVIDED MUST BE ORIGINALS.

If your surveyor has questions, they may contact John Moore at (512) 974-7177, Clark Daniel at (512) 974-7793, or Gary Glover at (512) 974-1416.

NOTE: Please call our office for information regarding surveys in the Downtown Area. This information needs to be provided to your surveyor.

EXHIBIT "B"

DEDICATION INFORMATION

If a **Deed** is to be dedicated in conjunction with the street/alley vacation, please submit the following:

- _____ A Title Commitment **not more than 2 weeks old** on the property being dedicated to the City of Austin ("City"), along with a copy of all documentation noted on the title commitment.
- _____ Signed & sealed field notes and sketch of the area to be dedicated, prepared by a registered surveyor as noted in the procedures.
- _____ A Corporate Resolution, Partnership Agreement or Sole Proprietor document showing who is authorized to execute the dedication. If a Corporate Resolution form is needed, please contact our office and we will provide one.

If an **Easement** is to be dedicated in conjunction with the street/alley vacation, please submit the following:

- _____ A Lien Search Certificate **not more than 2 weeks old** on the property being dedicated to the City. (The lien search certificate includes the current owners, the legal description of property to be dedicated, and lienholder information or a statement that there are no liens).
- _____ Signed & sealed field notes and sketch of the area to be dedicated, prepared by a registered surveyor.
- _____ A Corporate Resolution, Partnership Agreement or Sole Proprietor document showing who is authorized to execute the dedication. If a Corporate Resolution form is needed, please contact our office and we will provide one.

Upon the City review of the Title Commitment or Lien Search Certificate, the following will apply:

- City will prepare all necessary document(s) related to any dedications.
- Property being dedicated to the City in Deed form will require the Lienholder to execute a Release of Lien.
- Property being dedicated to the City in Easement form will require the Lienholder to execute a Consent of Lienholder.
- Grantor is responsible for and shall incur all costs associated with obtaining the Lienholder's release or consent.
- Grantor will execute an Affidavit as to Debts and Liens, if there are no liens.
- City will notify the applicant once the documents for execution are available for pickup.
- Do not execute any documents if changes are required. The City Attorney must review and approve any changes.
- Upon receipt of the executed Deed/Easement Dedication, Release of Lien, Consent of Lienholder or Affidavit, said document(s) will be forwarded to the City Department requesting the Deed/Easement for their approval and acceptance of the dedication.
- If a Deed is being dedicated, Grantor is responsible for and shall incur all costs associated with closing, which include the purchase of a Title Policy.
- If an Easement is dedicated, the document will be recorded along with the Quitclaim Deed and Lienholder Consent or Affidavit.
- Executed document(s) must be recorded in the real property records of the Texas county where the vacated area is located. Grantor is responsible for and shall incur all costs associated with recording the executed Deed/Easement Dedication.
- IF A DEED or EASEMENT IS RECORDED WITHOUT CITY OF AUSTIN APPROVAL AND ACCEPTANCE, AN **AFFIDAVIT OF NON-ACCEPTANCE** WILL BE FILED BY THE CITY.

Please call our office if you have any questions regarding this information.