



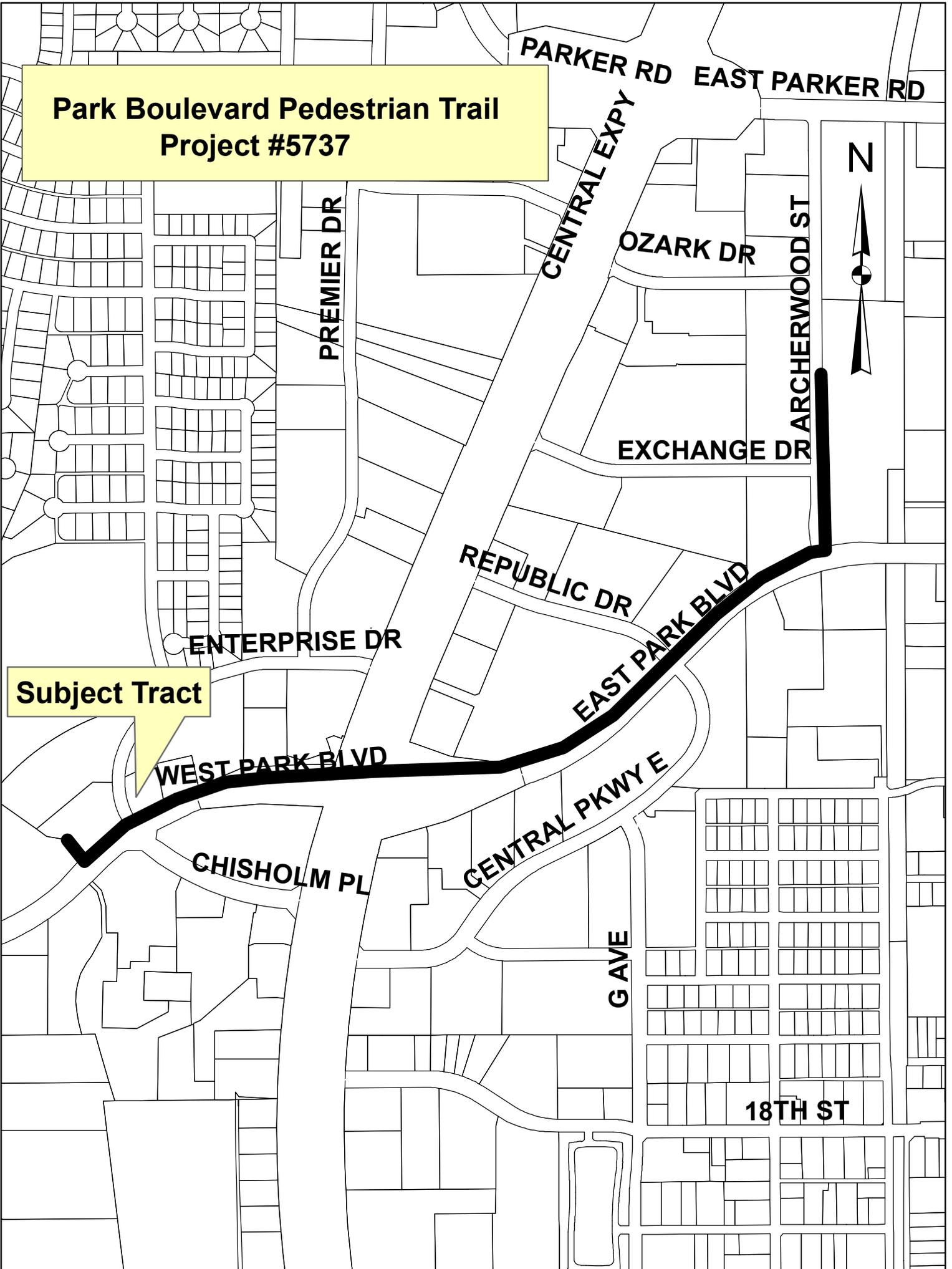
**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		05/12/14		
Department:		Engineering		
Department Head:		Jack Carr, P.E.		
Agenda Coordinator (include phone #): Kathleen Schonne (7198)				Project No. 5737
CAPTION				
<p>An Ordinance of the City of Plano, Texas determining a public necessity to acquire the easement property as described in the attached Exhibit "A", also known as 801 W. Park Boulevard, for the public use of the Park Boulevard and US 75 Pedestrian Crossing Project; authorizing the use of the power of eminent domain to condemn the easement property; authorizing the City Manager and City Attorney, or their respective designees, to acquire the property including making initial and bona fide offers, and authorizing the City Attorney to file eminent domain proceedings, if necessary, and providing an effective date.</p>				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2013-14	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S): N/A				
<p>COMMENTS: This item has no financial impact. STRATEGIC PLAN GOAL: Condemnation of these easements for future improvements relates to the City's goals of Financially Strong City with Service Excellence and Great Neighborhoods – 1st Choice to Live.</p>				
SUMMARY OF ITEM				
<p>This item authorizes the acquisition of a street, sidewalk and utility easement and a temporary construction easement, for a combined total area of 1957.1 square feet. The location of the easements is at the northeast corner of the intersection of Park Boulevard and Enterprise Drive, on property owned by Big Score Investors, LLC.</p> <p>The City plans to use the easements for the improvements necessary for the Park Boulevard Pedestrian Trail project and related appurtenances. These include, but are not limited to, the reconstruction of the sidewalk and the reconstruction of the driveway to fit the proposed sidewalk grades.</p> <p>https://maps.google.com/maps?q=park+boulevard+%26+Archerwood&hl=en&ll=33.031297,-96.701875&spn=0</p>				
List of Supporting Documents: Location Map, Ordinance; Street, Sidewalk and Utility Easement Parcel No. 1 Temporary Construction Easement		Other Departments, Boards, Commissions or Agencies N/A		

**Park Boulevard Pedestrian Trail
Project #5737**



Subject Tract



An Ordinance of the City of Plano, Texas determining a public necessity to acquire the easement property as described in the attached Exhibit “A”, also known as 801 W. Park Boulevard, for the public use of the Park Boulevard and US 75 Pedestrian Crossing Project; authorizing the use of the power of eminent domain to condemn the easement property; authorizing the City Manager and City Attorney, or their respective designees, to acquire the property including making initial and bona fide offers, and authorizing the City Attorney to file eminent domain proceedings, if necessary, and providing an effective date.

WHEREAS, the City Council of the City of Plano, Texas, (the “City Council”) upon consideration of this matter, has determined that there is a public need and necessity for the health, safety, and welfare of the City of Plano and the public at large to acquire utility, street, sidewalk, and temporary construction easements (collectively “Easements”) in the general form and on the property attached hereto as Exhibit “A”, also known as 801 W. Park Boulevard, (the “Property”) and incorporated herein for all purposes, located within the City of Plano, Collin County, Texas for the purpose of, among other things, the construction, access, repair, maintenance and replacement of the improvements and related appurtenances, which are necessary for the Park Boulevard and US 75 Pedestrian Crossing-Project #5737 (the “Project”) collectively (the “Public Uses”); and

WHEREAS, the City Council finds that the description of the Property, attached hereto as Exhibit “A” to be acquired by eminent domain for the Project, complies with applicable law in that the same: (i) provides property owner reasonable notice that the owner’s property may be subject to condemnation proceedings during the planning or construction of the Project; and (ii) the Project is a reconstruction project for which the law authorizes such description of the general area to be covered by the Project and/or the general route that will be used by the City of Plano for the Project; and

WHEREAS, the City Council has further investigated and determined that the Project constitutes a public use for a public purpose; and

WHEREAS, the City is required to make an initial offer as defined by and in compliance with Texas Property Code §21.0111 (“Initial Offer”) and a bona fide offer, as defined by and in compliance with Texas Property Code §21.0113 (“Bona Fide Offer”) to acquire the Easements on the Property for public use, voluntarily, from the subject landowners prior to moving forward with the acquisition by eminent domain; and

WHEREAS, the City Council now deems it necessary to authorize the City Attorney to initiate condemnation proceedings in order to acquire the necessary Easements;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. The City Council hereby finds and determines that the recitals made in the preamble of this Ordinance are true and correct, and incorporates such recitals into the body of this ordinance as if copied in their entirety.

Section II. The City Council hereby finds and determines that a public use and necessity exists for the Public Uses and authorizes acquisition of the necessary property rights in and to the Property for such purposes, as allowed by law, together with all necessary appurtenances, additions and improvements on, over, under, and through those certain lots, tracts or parcels of lands.

Section III. The City Council authorizes the City Attorney or her designee to negotiate for and to acquire the required property rights for the City, and to acquire said rights in compliance with State and any other applicable law. Moreover, the City Attorney, or designee, is specifically authorized and directed to do each and every act necessary to acquire the needed property rights including, but not limited to, the authority to negotiate, give notices, make written offers to purchase, prepare contracts, to retain and designate a qualified appraiser of the property interests to be acquired, as well as any other experts or consultants that she deems necessary for the acquisition process and, if necessary, to institute proceedings in eminent domain.

Section IV. The City Manager, or designee, is appointed as negotiator for the acquisition of the needed property interests and, as such, the City Manager or designee is authorized and directed to do each and every act and deed hereinabove specified or authorized by reference, subject to the availability of funds appropriated by the City Council for such purpose. Further, the City Manager or designee is specifically authorized to establish the just compensation for the acquisition of the Property. Additionally, if the City Manager or designee determines that an agreement as to damages or compensation cannot be reached, then the City Attorney or designee is hereby authorized and directed to file or cause to be filed, against the owner(s) and interested parties of the needed property interests, proceedings in eminent domain to acquire the above-stated interests in the Property.

Section V. This Ordinance shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this the 12th day of May, 2014.

Harry LaRosiliere, MAYOR

ATTEST:

Lisa Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

STREET, SIDEWALK AND UTILITY EASEMENT

STATE OF TEXAS

COUNTY OF COLLIN

NOTARIAL

KNOW ALL MEN BY THESE PRESENTS:

THAT, BIG SCORE INVESTORS, LLC, a Texas limited liability company, whether one or more, hereinafter called "Grantor," for and in consideration of the sum of **TEN DOLLARS (\$10.00)** and other good and valuable consideration to Grantor in hand paid by the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, hereinafter called "Grantee," the receipt and sufficiency of which is hereby acknowledged, does hereby **SELL, GRANT and CONVEY** to the Grantee an easement for street and utility purposes and the right to lay out, open, operate, construct, reconstruct and perpetually maintain street, sidewalk and utility facilities (the "Facilities"), together with all necessary incidental improvements and appurtenances, in, under, along, upon and across certain real property located in the City of Plano, Collin County, Texas, as more particularly described in Exhibit "A" attached hereto and incorporated herein by reference as if fully set forth herein (the "Easement Property").

TO HAVE AND TO HOLD the same perpetually unto the Grantee, its successors and assigns, together with the right and privilege at all times to enter the Easement Property, or any part thereof, and with the right of access across Grantor's adjacent property for ingress and egress to the Easement Property for the purpose of constructing, reconstructing and maintaining the Facilities, and all incidental improvements and for making connections therewith. Grantee shall have the right to construct, reconstruct and perpetually maintain additional Facilities at all times in the future within the Easement Property.

TO HAVE AND TO HOLD the same perpetually unto the Grantee, its successors and assigns, together with all and singular the right, privilege, and appurtenances thereto in any manner belonging unto Grantee, its successors and assigns, forever.

SIGNED this _____ day of _____, 20__.

BIG SCORE INVESTORS, LLC, a Texas limited liability company

By: _____
Name: _____
Title: _____
Address: _____

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 20__, by _____ of **BIG SCORE INVESTORS, LLC**, a Texas limited liability company, on behalf of said limited liability company.

Notary Public, State of Texas

AFTER RECORDING RETURN TO:
City Attorney's Office
City of Plano, Texas
P. O. Box 860358
Plano, TX 75086-0358

STREET AND UTILITY EASEMENT PARCEL No. 1
EXHIBIT "A"
BIG SCORE INVESTORS, LLC
ENTERPRISE PLAZA
CITY OF PLANO, COLLIN COUNTY, TEXAS

Being a permanent variable width street and utility easement out of a tract of land conveyed to BIG SCORE INVESTORS, LLC by deed as recorded in Instrument Number 20111102001182140, Official Public Records, Collin County, Texas, said tract also being Lot 1, Block A, Enterprise Plaza, being an Addition to the City of Plano according to the plat recorded in Volume G, Page 637, Map Records of Collin County, Texas (M.R.C.C.T.), said permanent variable width street and utility easement being herein more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron rod found at the southeast property corner of the said Lot 1, said beginning point being at the southwest property corner of Lot 3R, Block A, Enterprise Plaza Addition, being an Addition to the City of Plano according to the plat thereof recorded in Volume I, Page 409 of the M.R.C.C.T., said beginning point also being on the existing north right-of-way of Park Boulevard (being an 100 feet wide right-of-way at this point), said beginning point also being at the beginning of a curve to the left having a radius of 1,260.00 feet;

THENCE in a Southwesterly direction, along the south property line of the said Lot 1, along the said right-of-way line and along the said curve an arc length of 143.98 feet, through a central angle of 06°32'50", across a chord having a direction of South 61°12'59" West and a chord length of 143.90 feet to a point on the east right-of-way line of Enterprise Drive (being a 60 feet wide right-of-way);

THENCE North 75°04'31" West, along the south property line of the said Lot 1 and along the said east right-of-way line of Enterprise Drive, a distance of 13.56 feet to a point at the beginning of a curve to the right having a radius of 370.00 feet;

THENCE in a Northwesterly direction, along the west property line of the said Lot 1, along the said east right-of-way line of Enterprise Drive and along the said curve an arc length of 44.49 feet, through a central angle of 06°53'20", across a chord having a direction of North 23°21'33" West and a chord length of 44.46 feet to a ½" iron rod with cap stamped "SPOONER & ASSOCIATES" set;

THENCE South 36°21'32" East a distance of 17.15 feet to a ½" iron rod with cap stamped "SPOONER & ASSOCIATES" set;

THENCE South 56°11'15" East a distance of 26.25 feet to a ½" iron rod with cap stamped "SPOONER & ASSOCIATES" set;

THENCE South 81°28'24" East a distance of 10.63 feet to a ½" iron rod with cap stamped "SPOONER & ASSOCIATES" set at the beginning of a curve to the right having a radius of 1,266.00 feet;

THENCE in a Northeasterly direction along the said curve an arc length of 128.79 feet, through a central angle of 05°49'43", across a chord having a direction of North 61°39'07" East and a chord length of 128.73 feet to a ½" iron rod with cap stamped "SPOONER & ASSOCIATES" set on the east property line of the said Lot 1, said point also being on the west property line of the said Lot 3R;

THENCE South 09°49'09" East, along the said property lines, a distance of 6.23 feet to a point; to the **POINT OF BEGINNING** containing 0.031 acres (1,354.3 Sq. Ft.) of land more or less.

SURVEYORS CERTIFICATE

TO ALL PARTIES INTERESTED IN TITLE TO THE PREMISES SURVEYED, I DO HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED FROM PUBLIC RECORDS AND FROM AN ACTUAL AND ACCURATE SURVEY UPON THE GROUND AND THAT SAME IS TRUE AND CORRECT.

By: _____

Surveyors Name: Eric Shaun Spooner
Registered Professional Land Surveyor,
Texas No. 5922
Date of Survey: 11-19-07
Revised: 8-30-12



PLAT OF EXHIBIT "A"

SEE ATTACHED LEGAL DESCRIPTION
ON PAGES 1 & 2 OF EXHIBIT "A"

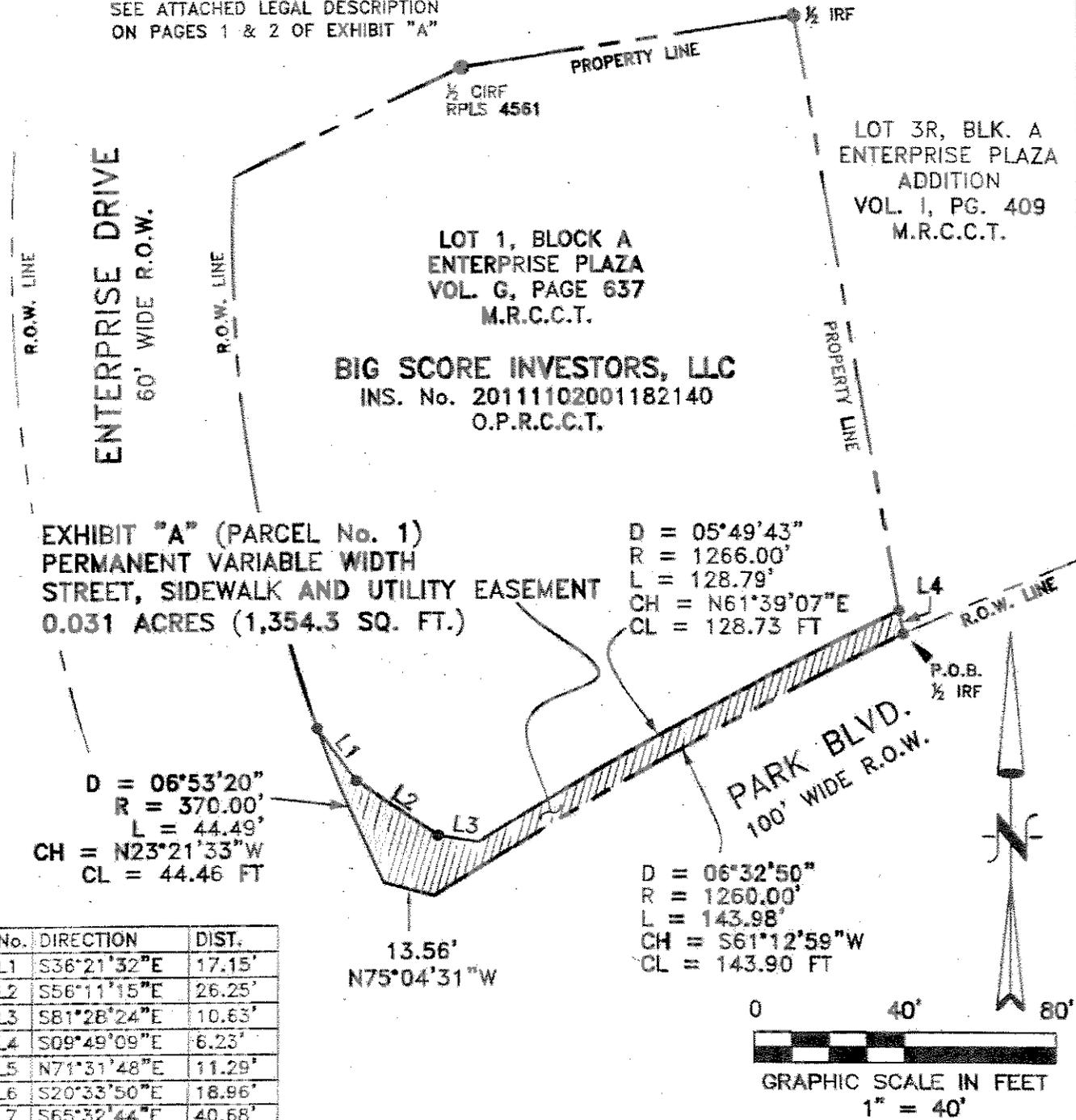


EXHIBIT "A" (PARCEL No. 1)
PERMANENT VARIABLE WIDTH
STREET, SIDEWALK AND UTILITY EASEMENT
0.031 ACRES (1,354.3 SQ. FT.)

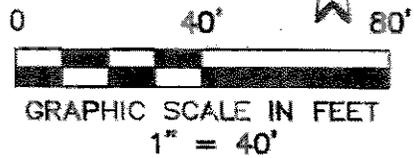
D = 06°53'20"
R = 370.00'
L = 44.49'
CH = N23°21'33"W
CL = 44.46 FT

D = 05°49'43"
R = 1266.00'
L = 128.79'
CH = N61°39'07"E
CL = 128.73 FT

D = 06°32'50"
R = 1260.00'
L = 143.98'
CH = S61°12'59"W
CL = 143.90 FT

No.	DIRECTION	DIST.
L1	S36°21'32"E	17.15'
L2	S56°11'15"E	26.25'
L3	S81°28'24"E	10.63'
L4	S09°49'09"E	6.23'
L5	N71°31'48"E	11.29'
L6	S20°33'50"E	18.96'
L7	S65°32'44"E	40.68'

13.56'
N75°04'31"W



NOTE: THE BASIS OF BEARINGS FOR THIS SURVEY IS ESTABLISHED FROM PLAT BEARINGS AS SHOWN ON LOT 1, BLOCK A, ENTERPRISE PLAZA (VOL. G, PAGE 637) M.R.C.C.T.



PERMANENT VARIABLE WIDTH STREET, SIDEWALK AND UTILITY EASEMENT

SUBDIVISION: ENTERPRISE PLAZA		PARCEL No. 1 REVISED: 10-16-12	
LOCATION: CITY OF PLANO, COLLIN COUNTY, TEXAS		EXHIBIT "A" PAGE 3 OF 3	
WHOLE PROPERTY ACREAGE: 0.7237 ACRES PER PLAT		ACAD FILE: 1580-PLANO-INTERSECTIONS REV 10/16/12	
S&A JOB NO.: 1580	DRAWN BY: E.S.S./R.C.S.	DATE: 1-19-07	
	CHECKED BY: E.S.S.		

TEMPORARY CONSTRUCTION EASEMENT

STATE OF TEXAS
COUNTY OF COLLIN

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

THAT, **BIG SCORE INVESTORS, LLC**, a Texas limited liability company, hereinafter called "Grantor," for and in consideration of the sum of **TEN DOLLARS (\$10.00)** and other good and valuable consideration to Grantor in hand paid by the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, hereinafter called "Grantee," the receipt and sufficiency of which is hereby acknowledged, does **SELL, GRANT and CONVEY** to Grantee, its successors and assigns, a temporary construction easement for the purpose of grading and constructing private driveways associated with roadway and related drainage or utility construction in, on, across and through certain real property in the City of Plano, Collin County, Texas, more particularly described in Exhibit "A", which is attached hereto and made a part hereof by reference as if fully set forth herein (called the "Easement Property").

Grantee will at all times, after doing any work in connection with the construction, operation or repair of the Easement Property, restore the surface of the Easement Property as close to the condition in which it was found before such work was undertaken as is reasonably practicable, except for trees, shrubs and structures within the Easement Property that were removed as a result of such work.

This Temporary Construction Easement will expire at such time that the public improvement project described as Park Blvd. Pedestrian Crossing, Project No. 5737 is completed and accepted by the City of Plano, Texas.

This Easement may be assigned in whole or in part.

TO HAVE AND TO HOLD unto the Grantee, its successors and assigns, together with the right and privilege at all times to enter the Easement Property or any part thereof, for the purpose of access by Grantee and Grantee's contractors and their employees and for the purposes set forth above.

SIGNED this _____ day of _____, 2014.

BIG SCORE INVESTORS, LLC, a Texas limited liability company

By:

Name: _____
Title: _____
Address: _____

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2014, by _____ (Name), _____ (Title) of **BIG SCORE INVESTORS, LLC**, a Texas limited liability company, on behalf of said limited liability company.

Notary Public, State of Texas

After Recording Please Return To:
City Attorney's Office
City of Plano, Texas
P.O. Box 860358
Plano, TX 75086-0358

EXHIBIT "A"
TEMPORARY CONSTRUCTION EASEMENT
BIG SCORE INVESTORS, L.L.C.
ENTERPRISE PLAZA ADDITION
CITY OF PLANO, COLLIN COUNTY, TEXAS

BEING a 0.014 acre tract being located in the J.M. Salmons Survey, Abstract No. 614, City of Plano, Collin County, Texas, said 0.014 acre tract of land being a portion of **LOT 1, BLOCK A, ENTERPRISE PLAZA ADDITION**, being an Addition to the City of Plano, Collin County, Texas, according to the plat thereof recorded in Volume G, Page 637, Plat Records, Collin County, Texas, said 0.014 acre tract of land also being a portion of that same tract of land conveyed to **BIG SCORE INVESTORS, L.L.C.**, by deed as recorded in Collin County Clerk's Instrument No. 20111102001182140, Official Public Records, Collin County, Texas, said 0.014 acre tract of land being a variable width Temporary Construction Easement, and being more particularly described by metes and bounds as follows:

BEGINNING on the west property line of said Lot 1, same being the east right-of-way line of Enterprise Drive (being a 60 feet wide right-of-way at this point), from which a 1/2 inch iron rod with a cap stamped "RPLS 4561" found at the a north property corner of said Lot 1 bears North 13°58'47" West, a distance of 172.38 feet;

THENCE over and across said Lot 1 the following courses and distances:

North 71°31'48" East, a distance of 11.29 feet;

South 20°33'50" East, a distance of 18.96 feet;

South 65°32'44" East, a distance of 40.68 feet to a point for corner from which a 1/2 inch iron rod found at the southeast property corner of said Lot 1 bears North 64°49'55" East, a distance of 115.82 feet, said point also being at the beginning of a curve to the left having a radius of 1,266.00 feet;

Along said curve to the left and in a southwesterly direction, through a central angle of 00°30'12", an arc length of 11.12 feet, and across a chord which bears South 58°59'22" West, a chord length of 11.12 feet;

North 81°28'24" West, a distance of 10.63 feet;

North 56°11'15" West, a distance of 26.25 feet;

North 36°21'32" West, a distance of 17.15 feet to the west property line of said Lot 1, same being on the said east right-of-way line of Enterprise Drive, and being at the beginning of a curve to the right having a radius of 370.00 feet;

THENCE along the said property line and along the said right-of-way line, with said curve to the right and in a northwesterly direction, through a central angle of $01^{\circ}06'24''$, an arc length of 7.15 feet, and across a chord which bears North $19^{\circ}21'41''$ West, a chord length of 7.15 feet to the **POINT OF BEGINNING**.

The hereinabove described tract of land contains **0.014 acres (603 square feet)** of land, more or less.

SURVEYORS CERTIFICATE

TO ALL PARTIES INTERESTED IN TITLE TO THE PREMISES SURVEYED, I DO HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED FROM PUBLIC RECORDS AND FROM AN ACTUAL AND ACCURATE SURVEY UPON THE GROUND AND THAT SAME IS TRUE AND CORRECT.

Surveyed on the ground during the month of November, 2007.



Eric S. Spooner, R.P.L.S.
Registered Professional Land Surveyor,
Texas Registration No. 5922
Spooners & Associates, Inc.
TBPLS Firm No. 10054900

3-5-14

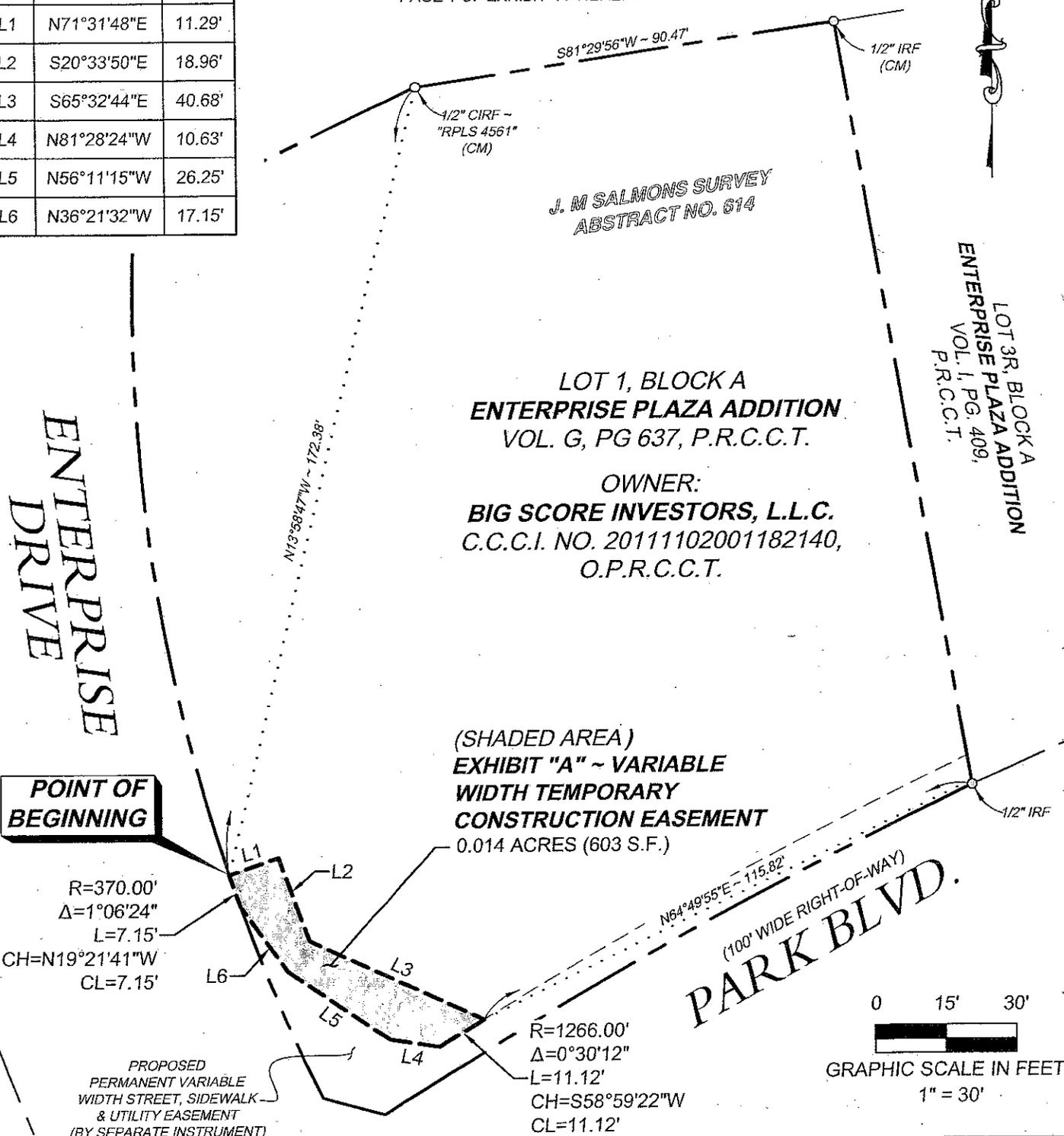
Date



LINE TABLE		
NO.	DIRECTION	DIST.
L1	N71°31'48"E	11.29'
L2	S20°33'50"E	18.96'
L3	S65°32'44"E	40.68'
L4	N81°28'24"W	10.63'
L5	N56°11'15"W	26.25'
L6	N36°21'32"W	17.15'

PLAT OF EXHIBIT "A"

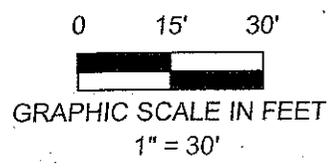
SEE ATTACHED LEGAL DESCRIPTION ON
PAGE 1 OF EXHIBIT "A" HEREIN



POINT OF BEGINNING

(SHADED AREA)
**EXHIBIT "A" ~ VARIABLE
WIDTH TEMPORARY
CONSTRUCTION EASEMENT**
0.014 ACRES (603 S.F.)

PARK BLVD.
(100' WIDE RIGHT-OF-WAY)



**EXHIBIT "A" ~ VARIABLE WIDTH
TEMPORARY CONSTRUCTION EASEMENT**
THE BASIS OF BEARINGS FOR THIS SURVEY IS
THE TEXAS STATE PLANE NAD83 NORTH
CENTRAL ZONE (4202).

PROPERTY: LOT 1, BLOCK A ENTERPRISE PLAZA ADDITION
LOCATION: CITY OF PLANO, COLLIN COUNTY, TEXAS
WHOLE PROPERTY ACREAGE: 0.7237 PLAT
ACAD FILE: 1580 PARK & ENTERPRISE ESMT.dwg

S&A JOB NO.: 1580
DATE: 3-5-14
DRAWN BY: C.R.R.
CHECKED BY: E.S.S.
PAGE 3 OF 3



SPOONER & ASSOCIATES
REGISTERED PROFESSIONAL LAND SURVEYORS
309 BYERS STREET, #100
EULESS, TX 76039
TBPLS NO. 10354900 (817) 685-8448
WWW.SPOONERSURVEYORS.COM

