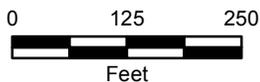
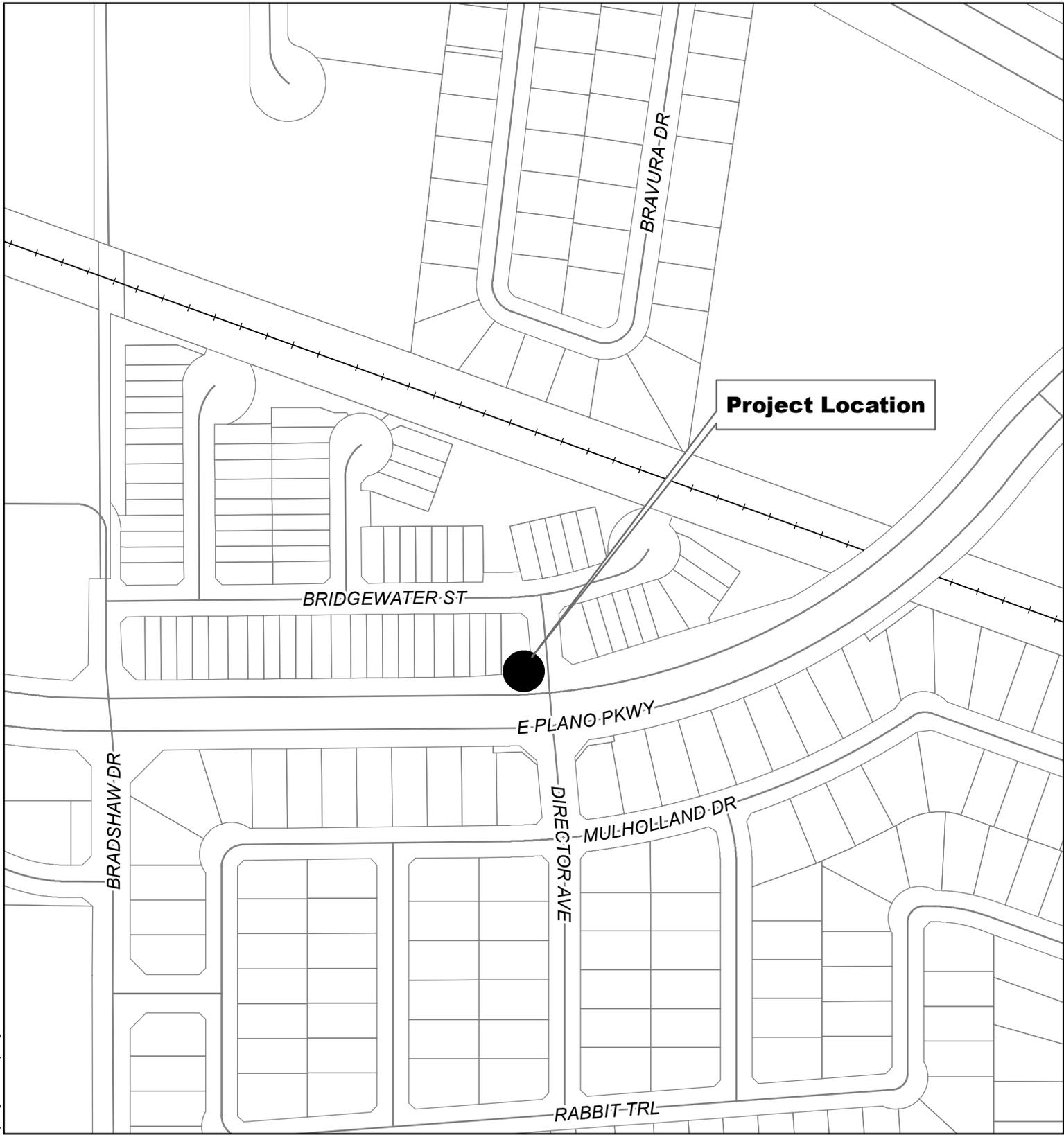




# CITY OF PLANO COUNCIL AGENDA ITEM

|  |                                  |  |                         |               |
|--|----------------------------------|--|-------------------------|---------------|
| <b>CITY SECRETARY'S USE ONLY</b>   |                                  |  |                         |               |
| <input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory   |                                  |  |                         |               |
| Council Meeting Date:  | 8/24/15                          |  |                         |               |
| Department:  | Engineering                      |  |                         |               |
| Department Head  | Jack Carr                        |  |                         |               |
| Project  | Parkway Heights Phase 3 #6049-3  |  |                         |               |
| Agenda Coordinator (include phone #): <b>Kathleen Schonke X-7198</b>   |                                  |  |                         |               |
| <b>CAPTION</b>   |                                  |  |                         |               |
| <p>An Ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in and to a portion of that certain Right-of-Way for Director Avenue (a 50 ft. Right-of-Way) and Plano Parkway (a variable width Right-of-Way), subject to retaining a Visibility, Access, and Wall Maintenance Easement, recorded in Cabinet 2013, Page 355 of the Plat Records of Collin County, Texas and being situated in the G.H. Pegues Survey, Abstract No. 700, which is located within the City limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such Right-of-Way to the abutting property owner, CBJeni Berkshire Place, LLC, to the extent of its interest; authorizing the City Manager or his authorized designee, to execute any documents deemed necessary; and providing an effective date.</p>             |                                  |  |                         |               |
| <b>FINANCIAL SUMMARY</b>   |                                  |  |                         |               |
| <input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP  |                                  |  |                         |               |
| FISCAL YEAR: <b>2014-15</b>  | <b>Prior Year<br/>(CIP Only)</b> | <b>Current<br/>Year</b>                            | <b>Future<br/>Years</b> | <b>TOTALS</b> |
| Budget   | 0                                | 0  | 0                       | <b>0</b>      |
| Encumbered/Expended Amount   | 0                                | 0  | 0                       | <b>0</b>      |
| This Item  | 0                                | 0  | 0                       | <b>0</b>      |
| BALANCE  | 0                                | 0  | 0                       | <b>0</b>      |
| FUND(s): <b>N/A</b>  |                                  |  |                         |               |
| <b>COMMENTS:</b> This item has no financial impact.<br><br>STRATEGIC PLAN GOAL: Abandoning all right, title and interest of the City to this Right-of-Way relates to the City's Goals of Financially Strong City with Service Excellence and Strong Local Economy.   |                                  |  |                         |               |
| <b>SUMMARY OF ITEM</b>   |                                  |  |                         |               |
| <p>The Right-of-Way area requested to be abandoned was originally dedicated as additional Right-of-Way for Plano Parkway since it was an area where a Visibility, Access and Maintenance Easement was required. The additional dedication caused the required 25' building setback to encroach further into the residential lots decreasing the buildable area of each lot. The abandoned Right-of-Way will be replatted with the required Visibility, Access and Wall Maintenance Easement in lieu of the Right-of-Way. The abandonment of this Right-of-Way will provide sufficient distance from the proposed adjusted Right-of-Way line on Plano Parkway to allow construction on the residential lots.</p> <p><a href="https://www.google.com/maps/@33.0074545,-96.6450266,19z/data=!3m1!1e3">https://www.google.com/maps/@33.0074545,-96.6450266,19z/data=!3m1!1e3</a></p> |                                  |  |                         |               |
| List of Supporting Documents:  |                                  | Other Departments, Boards, Commissions or Agencies |                         |               |
| Location Map; Ordinance Petition for Abandonment   |                                  | N/A  |                         |               |



City of Plano GIS Division  
August, 2015

## Parkway Heights Phase 3 Project No. 6049-3

**Project Location**



**An Ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in and to a portion of that certain Right-of-Way for Director Avenue (a 50 ft. Right-of-Way) and Plano Parkway (a variable width Right-of-Way), subject to retaining a Visibility, Access, and Wall Maintenance Easement, recorded in Cabinet 2013, Page 355 of the Plat Records of Collin County, Texas and being situated in the G.H. Pegues Survey, Abstract No. 700, which is located within the City limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such Right-of-Way to the abutting property owner, CBJeni Berkshire Place, LLC, to the extent of its interest; authorizing the City Manager or his authorized designee, to execute any documents deemed necessary; and providing an effective date.**

**WHEREAS**, the City Council of the City of Plano has been requested to abandon all right, title and interest of the City in and to a portion of that certain Right-of-Way for Director Avenue (a 50 ft. Right-of-Way and Plano Parkway (a variable width Right-of-Way), (hereinafter called "Right-of-Way"), subject to retaining a Visibility, Access, and Wall Maintenance Easement, recorded in Cabinet 2013, Page 355 of the Plat Records of Collin County, Texas being situated in the G.H. Pegues Survey, Abstract No. 700 which is located within the City limits of Plano, Collin County, Texas, and which is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference; and

**WHEREAS**, the Property Owner has filed with the City a Petition for Abandonment, a copy of which is attached hereto as Exhibit "B" and made a part hereof by reference; and

**WHEREAS**, the Engineering Department has determined that there will be no detrimental effect on the City if the Right-of-Way is abandoned and quitclaimed to the abutting Property Owner; and has advised that the Right-of-Way should be abandoned;

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

**Section I.** All the right, title and interest of the City of Plano, Texas, in and to the Right-of-Way is hereby abandoned, and all right, title and interest of the City in and to the Right-of-Way, subject to retaining a Visibility, Access, and Wall Maintenance Easement, is hereby quitclaimed to the abutting Property Owner in accordance with its respective interest. A certified copy of this Ordinance may be recorded in the Collin County Land Records to reflect this abandonment and quitclaim. The City Manager or his authorized designee, is hereby authorized to execute on behalf of the City of Plano, Texas, any instruments necessary to complete the abandonment and quitclaim of the Right-of-Way by the City of Plano.

**Section II.** The abandonment and quitclaim is without prejudice to any and all improvements, facilities, equipment or lines of any public utility, municipal or otherwise, if any, which are presently located within any portion of the Right-of-Way. Any such utility shall have the continued right to locate, maintain, repair, reconstruct, preserve or relocate improvements, facilities, equipment or lines in such portion of the Right-of-Way.

**Section III.** The City Council hereby finds and determines that the abandonment of the Right-of-Way is in the public interest of the City of Plano, Texas, and its citizens, and will inure to the benefit of the public generally.

**Section IV.** This Ordinance shall become effective immediately upon its passage as set forth below.

**DULY PASSED AND APPROVED** this the 24<sup>th</sup> day of August, 2015.

\_\_\_\_\_  
Harry LaRosiliere, MAYOR

ATTEST:

\_\_\_\_\_  
Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Paige Mims, CITY ATTORNEY

## EXHIBIT "B"

### PETITION FOR ABANDONMENT

[For Right-of-Way Abandonment]

We, the undersigned, (hereinafter "Owners"), being all of the owners of real property abutting DIRECTOR AVE. & PLANO PARKWAY (hereinafter called "Right-of-Way"), more particularly described by metes and bounds in the field note description attached hereto and incorporated herein as **Exhibit "A"** do hereby request that the City of Plano, Texas (called "City") abandon the Right-of-Way.

1. The Owners are requesting the abandonment of the Right-of-Way for the following reasons:

To provide sufficient setback (25 ft.) from the proposed adjusted right-of-way line of Plano Parkway to allow construction on owner's lots to meet City code(s).

2. The following public interest will be served as a result of the abandonment:

Owner will provide in return the required Visibility, Access, and Maintenance (VAM) Easement, to include a Wall Maintenance Easement, as required by City code(s).

3. Unless the City determines that this abandonment is exempt from payment of fair market value, the Owners agree to pay to the City the fair market value of the Right-of-Way as determined by an appraisal obtained by the City (called "Price"). The appraisal shall be conclusive as to the fair market value. The Owners shall reimburse the City for the cost of the appraisal and other costs incident to the abandonment (called "Costs") The Price and Costs shall be paid to the City prior to the abandonment. Should the Plano City Council decide not to abandon the Right-of-Way, the Price shall be returned to the Owners, but the Costs shall be retained by the City. Each Owner's share of the Price and Costs shall be in the same proportion as their abutting ownership as hereinafter defined.
4. ~~If the Owners are providing a replacement right-of-way for the Right-of-Way requested to be abandoned herein, Owners will attach a metes and bounds description or plat identifying the replacement right-of-way and attach same to this Petition as Exhibit "B".~~
5. The Owners hereby represent and affirm to the City that no other property owner, lessee, tenant or easement or license holder uses the Right-of-Way to access or to serve their property.
6. **The Owners further agree to release, defend, indemnify and hold the City, its officers, agents and employees harmless from and against any and all claims, losses, demands, suits, judgments and costs, including reasonable**

**and necessary attorney's fees and expenses, arising out of, related to or resulting from the abandonment and closing of the Right-of-Way by City.**

7. The Owners understand and agree that the abandonment is in the sole discretion of the Plano City Council. The Owners also understand and agree that the Right-of-Way will be abandoned to them in proportion to their abutting ownership. The abutting ownership will be determined by the number of linear feet of frontage adjacent to the Right-of-Way owned by each property owner. Based on the foregoing, the Owners hereby represent and affirm that they have searched the public land records and determined that the abutting ownership is in the following proportions:  

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8. ~~Owners shall also prepare a map or drawing showing the Right-of-Way to be abandoned along with a designation of all abutting property owners. This map or drawing shall be attached hereto and incorporated herein as Exhibit "C".~~
9. ~~Abutting property owners have signed letters indicating This description shall be attached hereto and incorporated herein as Exhibit "D".~~

[Reminder of page blank]

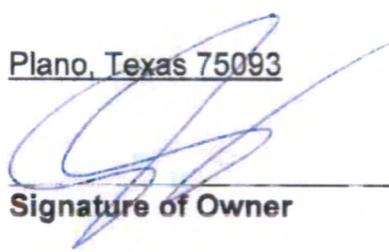
10. The undersigned officers and/or agents of the Owners hereby represent and affirm that they have the necessary authority to execute this Petition for Abandonment on behalf of the Owners.

Steve Schermerhorn  
**for CBJeni Berkshire Place, LLC**

2805 Dallas Parkway Suite 400

Plano, Texas 75093

Dated: 8/4/15

  
\_\_\_\_\_  
**Signature of Owner**

**Contact Person for Property Owners:**

**Name:**

Stephen Schermerhorn

**Phone No:**

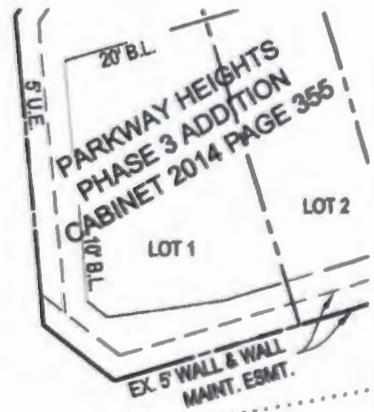
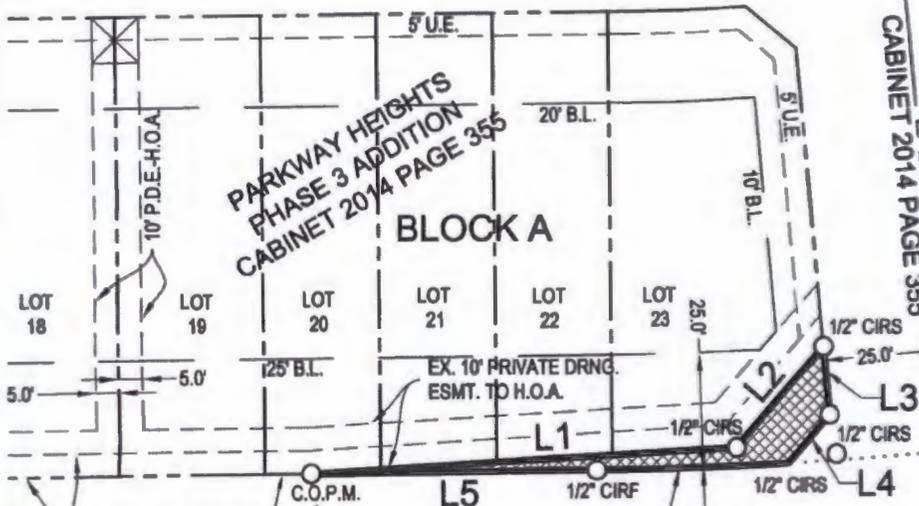
469-573-6706

| CURVE TABLE |          |         |        |        |             |
|-------------|----------|---------|--------|--------|-------------|
| Cv. #       | DELTA    | RADIUS  | LENGTH | CH. L  | CH. B       |
| C1          | 2°32'22" | 945.00' | 41.89' | 41.88' | S88°09'28"W |

| LINE TABLE |             |          |
|------------|-------------|----------|
| LINE #     | BEARING     | DISTANCE |
| L1         | N86°37'37"E | 92.37'   |
| L2         | N40°54'41"E | 29.14'   |
| L3         | S05°13'11"E | 15.00'   |
| L4         | S40°40'57"W | 13.92'   |
| L5         | S89°25'39"W | 61.73'   |

BRIDGEWATER STREET  
(50' right-of-way)  
CABINET 2014 PAGE 355

DIRECTOR AVE.  
(50' ROW)  
CABINET 2014 PAGE 355



PLANO PARKWAY  
VOLUME 5596, PAGE 1382, D.R.C.C.T.  
(110' right-of-way)

**POINT OF BEGINNING**

EX. 5' WALL & WALL MAINT. ESMT.  
N89°25'39"E  
9.96'

**LEGEND:**  
CIRCS 1/2" IRON ROD w/ RED PLASTIC CAP STAMPED "W.A.I." SET  
CIRF CAPPED IRON ROD FOUND  
C.O.P.M. CITY OF PLANO MONUMENT FOUND  
H.O.A. HOME OWNERS ASSOCIATION

RIGHT-OF-WAY TO BE ABANDONED



0' 20' 40'  
Scale 1"=40'

PARKWAY HEIGHTS ADDITION PHASE 1  
CC #20120410010000760

**Winkelmann & Associates, Inc.**  
CONSULTING CIVIL ENGINEERS ■ SURVEYORS  
6780 HILLCREST PLAZA DRIVE, SUITE 325 DALLAS, TEXAS 75230  
Texas Engineers Registration No. 89  
Firm Registration/License No. 10086600 Expires 12-31-15  
COPYRIGHT © 2015 Winkelmann & Associates, Inc.

Scale: 1" = 40'  
Date: 08.04.15  
Dwg. File: 45820-ROW Abandonment 20150804  
Project No.: 45820



EXHIBIT A  
RIGHT-OF-WAY ABANDONMENT  
0.011 ACRE TRACT

CBJENI BERKSHIRE PLACE, LLC  
2805 DALLAS PKWY. SUITE 400  
PLANO, TEXAS 75093

SHEET  
**1**  
OF  
**2**

**EXHIBIT "A"**  
**RIGHT-OF-WAY ABANDONMENT DESCRIPTION**

**STATE OF TEXAS     §**  
**COUNTY OF DALLAS   §**

BEING a tract of land situated in the G.H. Pegues Survey, Abstract No. 700, City of Plano, Collin County, Texas, being a portion right-of-way for Director Avenue (a 50 ft. right-of-way) and of Plano Parkway (a variable width right-of-way) per the final plat recorded of Parkway Heights Phase 3 Addition to the City of Plano as recorded in Cabinet 2014 Page 355, Plat Records, Collin County, Texas, (P.R.C.C.T.), and being more particularly described as follows:

BEGINNING at a City of Plano monument found on the north right-of-way line of said Plano Parkway, said point being on the south line of Lot 20 Block A of said Parkway Heights Phase 3 Addition, said point being North 89 deg 25 min 39 sec East a distance of 9.96 feet from the southwest corner of said Lot 20 Block A;

THENCE North 86 deg 37 min 37 sec East, departing said right-of-way line, along the south lines of Lots 20-23 Block A of said Parkway Heights Phase 3 Addition, for a distance of 92.37 feet to a 1/2 inch iron rod with plastic cap stamped "WAI" set for corner at the south end of a corner clip at the intersection of the existing west right-of-way line of said Director Ave. with the existing north right-of-way line of said Plano Parkway per said Parkway Heights Phase 3 Addition final plat;

THENCE North 40 deg 54 min 41 sec East, continuing along the south line of said Lot 23 Block A, and along said corner clip, for a distance of 29.14 feet to a 1/2 inch iron rod with plastic cap stamped "WAI" set for corner at the north end of said corner clip and on the west right-of-way line of said Director Ave.,

THENCE South 05 deg 13 min 11 sec East, for a distance of 15.00 feet to a 1/2 inch iron rod with plastic cap stamped "WAI" set for corner;

THENCE South 40 deg 40 min 57 sec West, for a distance of 13.92 feet to a 1/2 inch iron rod with plastic cap stamped "WAI" set for corner at a point 110 feet north of and perpendicular to the south right-of-way line of said Plano Parkway; said point being the beginning of a circular curve to the right having a central angle of 02 deg 32 min 22 sec, a radius of 945.00 feet, and a chord which bears South 88 deg 09 min 28 sec West for 41.88 feet;

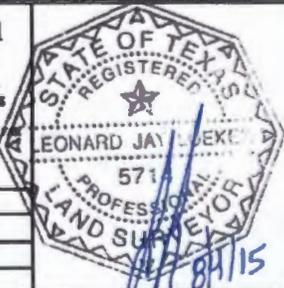
THENCE along said circular curve, said curve being 110 foot north of and parallel to the south right-of-way line of said Plano Parkway, for an arc length of 41.88 feet to a 1/2 inch iron rod with plastic cap found for corner;

THENCE South 89 deg 25 min 39 sec West, continuing along said line 110 foot north of and parallel to the south right-of-way line of said Plano Parkway, for a distance of 61.73 feet to the POINT OF BEGINNING.

Containing within these metes and bounds 0.011 Acres or 459 sq. ft. of land, more or less.

**BASIS OF BEARING:**

Bearings shown hereon are based upon an on-the-ground Survey performed in the field on the 31st day of July, 2013, utilizing a G.P.S. bearing related to the City of Plano Geodetic Monuments Station S2 (GPS point #219) and Station Q2 (GPS point #123), along the Southwesterly right-of-way line of D.A.R.T. right-of-way line.

|   |   |  |  |
|---|---|--|--|
|  <p><b>Winkelmann<br/>&amp; Associates, Inc.</b></p> <p>CONSULTING CIVIL ENGINEERS ■ SURVEYORS</p> <p>8700 HILLCREST PLAZA DRIVE, SUITE 425<br/>DALLAS, TEXAS 75238</p> <p>Texas Engineers Registration No. 89 (872) 490-7000<br/>Firm Registration License No. 1006800 Expires 12-31-14 (872) 490-7000<br/>COPYRIGHT © 2014 Winkelmann &amp; Associates, Inc.</p> |  | <p>EXHIBIT A</p> <p>RIGHT-OF-WAY ABANDONMENT</p> <p>0.011 ACRE TRACT</p>   | <p><b>SHEET</b></p> <p><b>2</b></p> <p><b>OF</b></p> <p><b>2</b></p> |
|   |   | <p>Scale :</p> <p>Date : 08.04.15</p> <p>Dwg. File : 45820-ROW Abandonment 20150804</p> <p>Project No. : 45820</p> |  |