

Agenda Item #: **3-C-7**

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: November 6, 2007

Consent **Regular**
 Workshop **Public Hearing**

Department:

Submitted By: Engineering and Public Works

Submitted For: Right-of-Way Acquisition Section

Project No.: 2001505B

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: A Subordination of Utility Interests from Florida Power and Light Company (FPL) releasing their interests to Palm Beach County (County) in a parcel of land located on the west side of Jog Road at the Omni Middle School north of Yamato Road.

Summary: This action will approve a Subordination of Utility Interests which releases the interests of FPL in a parcel of land required for a right turn lane on Jog Road at the Omni Middle School. This Subordination of Utility Interests requires the County to pay for any future relocation costs of the utility facilities when and if requested by the County.

District: 4 (PK)

Background and Justification: FPL has certain utility interests within a ten foot platted utility easement along the eastern boundary of Tract Y-4, as shown on the Plat of Middle School "GG", recorded in Plat Book 67, Page 74, Public Records of Palm Beach County, Florida. A portion of said easement is required as right-of-way for a right turn lane on Jog Road at the Omni Middle School. The property owner, The School District of Palm Beach County, is in the process of conveying to the County the right turn lane right-of-way. County policy is that land conveyed to the County must be free and clear of all encumbrances. It is, therefore, required that FPL subordinate their interest in the existing utility easement. FPL has agreed to relocate any facilities they may have from said parcel of land when and if the County should so request. The County is agreeable to paying for reasonable costs for this relocation as necessary. The construction of this right turn lane is a part of the widening of the Jog Road project from Yamato Road to Clint Moore Road, which is on the current Five Year Road Program.

Attachments:

- 1. Location Map
- 2. Subordination of Utility Interests with Exhibit "A"

Recommended by:

Ornelis A. Fernandez
Division Director

10/11/07
Date

Approved by:

S. T. Wehl
County Engineer

10/9/07
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Capital Expenditures	-0-	-0-	-0-	-0-	-0-
Operating Cost	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-

NET FISCAL IMPACT

**# ADDITIONAL FTE
POSITIONS (Cumulative)**

Is Item Included in Current Budget? Yes No
 Budget Account No.: Fund _____ Dept. _____ Unit _____ Object _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

This item has no additional fiscal impact.

Approval of the Subordination of Utility Interests may require the expenditure of funds for future relocation of utility facilities. This potential impact is not possible to quantify or state with any certainty that it will occur at the present time.

C. Departmental Fiscal Review: R. D. Ward 10/2/07

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

Jim Oml 10-17-07
 OFMB
 SD 10/11/07 V9 10/12/07

Jim J. Jucola 10/18/07
 Contract Dev. and Control
 10/18/07

B. Approved as to Form and Legal Sufficiency:

Paul F. J. 10/19/07
 Assistant County Attorney

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.

Return to: Right-of-way Acquisition Section
Name: Palm Beach County Engineering
Address: Post Office Box 21229
West Palm Beach Florida 33416
Attn: Ed Handy
Account No.: 1010 W/C BOX 1066

This Instrument Prepared By:
Name: Paul F. King, Esq.
Assistant County Attorney
Post Office Box 21229
West Palm Beach, Florida 33416
P.I.N.: 06-42-47-03-09-025-0030

Project No.: 2001505B Not to be recorded without Board of County Commissioners Acceptance Date
Project Name: Right Turn Lane - Jog Rd., Yamato to Clint Moore
Parcel No.: 101

**SUBORDINATION OF UTILITY INTERESTS
TO PALM BEACH COUNTY, FLORIDA**

THIS AGREEMENT, entered into this ___ day of _____, 2007, by and between the COUNTY OF PALM BEACH (hereinafter the "County"), and Florida Power & Light Co., whose mailing address is 9329 South Military Trail, Boynton Beach, FL 33436, hereinafter the "Utility").

WHEREAS, the Utility presently has easements in certain property that has been determined necessary for public purposes; and,

WHEREAS, the proposed use of this property will require subordination to the County of the interests claimed in said property by the Utility and at the request of the County, the Utility has agreed, subject to the following conditions, to relocate its facilities from the Utility's easement onto public right-of-way, or has agreed to leave its facilities on the subordinated property (hereinafter "Property"), described in Exhibit "A" attached hereto and made a part hereof; and,

WHEREAS, the County is willing to pay to have the Utility's facilities relocated as necessary to prevent conflict between the facilities so that the benefits of each may be retained;

NOW THEREFORE, in consideration of the mutual covenants and promises of the parties hereto, the utility and the County agree as follows:

1. The utility hereby subordinates any and all of its interest in that portion of the following easements lying within the Property, to the interest of the County, its successors or assigns, through, under, upon or across the Property;
10 Foot Utility Easement along the eastern boundary of Tract Y-4, as shown on the Plat of Middle School "GG", Plat Book 67, Page 74, Public Records of Palm Beach County, Florida.
2. The utility shall have the right to construct, operate, maintain, improve, add to, upgrade, remove, and relocate facilities on, within, and upon all the Property in accordance with the County's current minimum standards for such facilities as of the date of such construction. Any new construction or relocation of the facilities within the Property will be subject to prior approval by the County. Should the County fail to approve any new construction or relocation of facilities by the utility or hereafter require the Utility to alter, adjust or relocate its facilities from within the Property, the County hereby agrees to pay the Utility's reasonable cost of any required alteration, adjustment or relocation, caused by the County's actions, including the cost of acquiring the necessary easements.
3. The Utility shall have a reasonable right to enter upon the Property for the purposes outlined in paragraph 2 above, including the right to trim such trees, bushes, and growth which might endanger or interfere with the operation and safety of the Utility's facilities.
4. The Utility agrees to repair any damage to the County's facilities and to indemnify and hold harmless the County against any loss or damage resulting from the Utility exercising its rights outlined in paragraph 2 and 3 above.
5. These terms and conditions shall be attached as an addendum to the permit, if any, required by the County for location of facilities on the Property.

6. This agreement is not assignable except to the State of Florida for the purposes described herein.

7. IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first written.

ATTEST:

Sharon R. Bock, Clerk & Comptroller

PALM BEACH COUNTY, FLORIDA, a Political subdivision of the State of Florida
BOARD OF COUNTY COMMISSIONERS

By: _____
Clerk (or Deputy Clerk)

By: _____
Addie L. Green, Chairperson

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: _____
County Attorney

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____ 2007, by _____ Chairperson, Board of County Commissioners, who is personally known to me and who did not take an oath.

Signature

Print Name

FLORIDA POWER & LIGHT COMPANY
NAME OF UTILITY

By: _____

Signature

J. T. Corson

Print Name

CORP REAL ESTATE PROJECT MANAGER
Title

Michelle Kahmann
Witness Signature

Michelle Kahmann

Print Name of Witness

Deborah C. Patterson
Witness Signature

DEBORAH C. PATTERSON

Print Name of witness

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 28th day of August 2007, by J. T. Corson, who is personally known to me, or who supplied _____ as identification, and who did/did not take an oath.

SEAL

Michelle M. Kahmann
NOTARY PUBLIC

266-LGL REV. 11/19/02



Michelle M. Kahmann
My Commission DD242663
Expires September 18, 2007

PARCEL 101

A PARCEL OF LAND IN SECTION 3, TOWNSHIP 47 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LYING IN TRACT Y-4 OF THE PLAT OF MIDDLE SCHOOL "GG", RECORDED IN PLAT BOOK 67, PAGE 74 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF SAID PLAT;
 THENCE ALONG THE EAST LINE OF SAID TRACT Y-4,
 S00°56'52"E FOR 897.12 FEET;
 THENCE CONTINUE ALONG SAID EAST LINE, S01°54'53"W FOR 420.52 FEET;
 THENCE CONTINUE ALONG SAID EAST LINE, S00°56'52"E FOR 73.34 FEET TO
 THE NORTH LINE OF TRACT Y-5 OF SAID PLAT;
 THENCE ALONG SAID NORTH LINE, N21°16'52"W FOR 11.51 FEET;
 THENCE N00°56'52"W FOR 99.00 FEET;
 THENCE N04°11'42"E FOR 100.40 FEET;
 THENCE N00°56'52"W FOR 426.98 FEET;
 THENCE S89°03'08"W FOR 10.00 FEET;
 THENCE N00°56'52"W FOR 94.37 FEET;
 THENCE N00°00'23"W FOR 362.70 FEET;
 THENCE N11°15'57"E FOR 51.16 FEET;
 THENCE N00°00'23"W FOR 246.71 FEET TO THE NORTH BOUNDARY OF SAID PLAT;
 THENCE ALONG SAID NORTH BOUNDARY, N89°18'33"E FOR 5.17 FEET TO THE POINT
 OF BEGINNING.

CONTAINING 18,963 SQUARE FEET, MORE OR LESS.

BEARING BASIS: S00°56'52"E ALONG THE EAST BOUNDARY OF THE PLAT OF MIDDLE SCHOOL "GG".

NOTE: STATIONS AND OFFSETS NOTED REFER TO ROADWAY PLANS FOR JOG ROAD (GLADES ROAD TO CLINT MOORE ROAD) PREPARED BY K-F GROUP, INC., PALM BEACH COUNTY PROJECT NUMBER 2001505.

ABBREVIATIONS

- P.O.B. - POINT OF BEGINNING
- P.O.C. - POINT OF COMMENCEMENT
- R/W - RIGHT-OF-WAY
- P.B. - PLAT BOOK
- O.R.B. - OFFICIAL RECORD BOOK
- Rt. - RIGHT OF BASELINE
- Lt. - LEFT OF BASELINE
- LWDD - LAKE WORTH DRAINAGE DISTRICT
- L.M.E. - LAKE MAINTENANCE EASEMENT
- R.A. - RESTORATION AGREEMENT
- U.E. - UTILITY EASEMENT

THE DESCRIPTION SKETCH AND THE DESCRIPTION TEXT COMPRISE THE COMPLETE LEGAL DESCRIPTION. THE LEGAL DESCRIPTION IS NOT VALID UNLESS BOTH ACCOMPANY EACH OTHER. REPRODUCTIONS OF THIS DOCUMENT ARE NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND THE ORIGINAL RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER NOTED BELOW.


 JOHN E. PHILLIPS
 PROFESSIONAL LAND SURVEYOR
 STATE OF FLORIDA No. 4826
 DATE: AUG 15 2007

LEGAL DESCRIPTION

DRAWN:	MDB	PROJ. No. 01-048
CHECKED:	JEP	SCALE: NONE
JOG ROAD		DATE: 8/14/07
Project No. 2001505		SHEET 1 OF 4

BROWN & PHILLIPS, INC.

PROFESSIONAL SURVEYING SERVICES
 CERTIFICATE OF AUTHORIZATION # LB 6473
 901 NORTHPOINT PARKWAY, SUITE 305, W. PALM BEACH, FL 33407
 (561) 615-3988, (561) 615-3986 FAX

REVISION: REVISED PER COUNTY COMMENTS. 8/15/07

RESTORATION AGREEMENT 301

A RESTORATION AGREEMENT IN SECTION 3, TOWNSHIP 47 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LYING IN TRACT Y-4 OF THE PLAT OF MIDDLE SCHOOL "GG", RECORDED IN PLAT BOOK 67, PAGE 74 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, 5.00 FEET WIDE, ABUTTING, AND LYING 5.00 FEET WESTERLY, OF THE FOLLOWING DESCRIBED LINE:

COMMENCE AT THE NORTHEAST CORNER OF SAID PLAT;
 THENCE ALONG THE EAST LINE OF SAID TRACT Y-4,
 S00°56'52"E FOR 897.12 FEET;
 THENCE CONTINUE ALONG SAID EAST LINE, S01°54'53"W FOR 420.52 FEET;
 THENCE CONTINUE ALONG SAID EAST LINE, S00°56'52"E FOR 73.34 FEET TO
 THE NORTH LINE OF TRACT Y-5 OF SAID PLAT;
 THENCE ALONG SAID NORTH LINE, N21°16'52"W FOR 11.51 FEET;
 THENCE N00°56'52"W FOR 99.00 FEET;
 THENCE N04°11'42"E FOR 100.40 FEET;
 THENCE N00°56'52"W FOR 426.98 FEET;
 THENCE S89°03'08"W FOR 10.00 FEET;
 THENCE N00°56'52"W FOR 94.37 FEET;
 THENCE N00°00'23"W FOR 362.70 FEET;
 THENCE N11°15'57"E FOR 51.16 FEET;
 THENCE N00°00'23"W FOR 246.71 FEET TO THE NORTH BOUNDARY OF SAID PLAT
 AND THE END OF SAID LINE.

IT IS THE INTENT OF THIS DESCRIPTION FOR SAID 5.00' RESTORATION AGREEMENT TO TERMINATE SOUTHERLY AT THE NORTH LINE OF SAID TRACT Y-5, AND TERMINATE NORTHERLY AT THE NORTH BOUNDARY OF SAID PLAT OF MIDDLE SCHOOL "GG".

CONTAINING 6,923 SQUARE FEET, MORE OR LESS.

BEARING BASIS: S00°56'52"E ALONG THE EAST BOUNDARY OF THE PLAT OF MIDDLE SCHOOL "GG".



BROWN & PHILLIPS, INC.

PROFESSIONAL SURVEYING SERVICES

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901 NORTHPOINT PARKWAY, SUITE 305, W. PALM BEACH, FL 33407

(561) 615-3988, (561) 615-3986 FAX

LEGAL DESCRIPTION

DRAWN:	MDB	PROJ. No. 01-048
CHECKED:	JEP	SCALE: NONE
JOG ROAD		DATE: 8/14/07
Project No. 2001505		SHEET 2 OF 4

UTILITY EASEMENT 401

AN EASEMENT IN SECTION 3, TOWNSHIP 47 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LYING IN TRACT Y-4 OF THE PLAT OF MIDDLE SCHOOL "GG", RECORDED IN PLAT BOOK 67, PAGE 74 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, 5.00 FEET WIDE, ABUTTING, AND LYING 10.00 FEET WESTERLY, OF THE FOLLOWING DESCRIBED LINE:

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 S00°56'52"E FOR 897.12 FEET;
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 THENCE N00°56'52"W FOR 94.37 FEET;
 THENCE N00°00'23"W FOR 362.70 FEET;
 THENCE N11°15'57"E FOR 51.16 FEET;
 THENCE N00°00'23"W FOR 246.71 FEET TO THE NORTH BOUNDARY OF SAID PLAT
 AND THE END OF SAID LINE.

IT IS THE INTENT OF THIS DESCRIPTION FOR SAID 10.00' EASEMENT TO TERMINATE SOUTHERLY AT THE NORTH LINE OF SAID TRACT Y-5, AND TERMINATE NORTHERLY AT THE NORTH BOUNDARY OF SAID PLAT OF MIDDLE SCHOOL "GG".

CONTAINING 13,779 SQUARE FEET, MORE OR LESS.

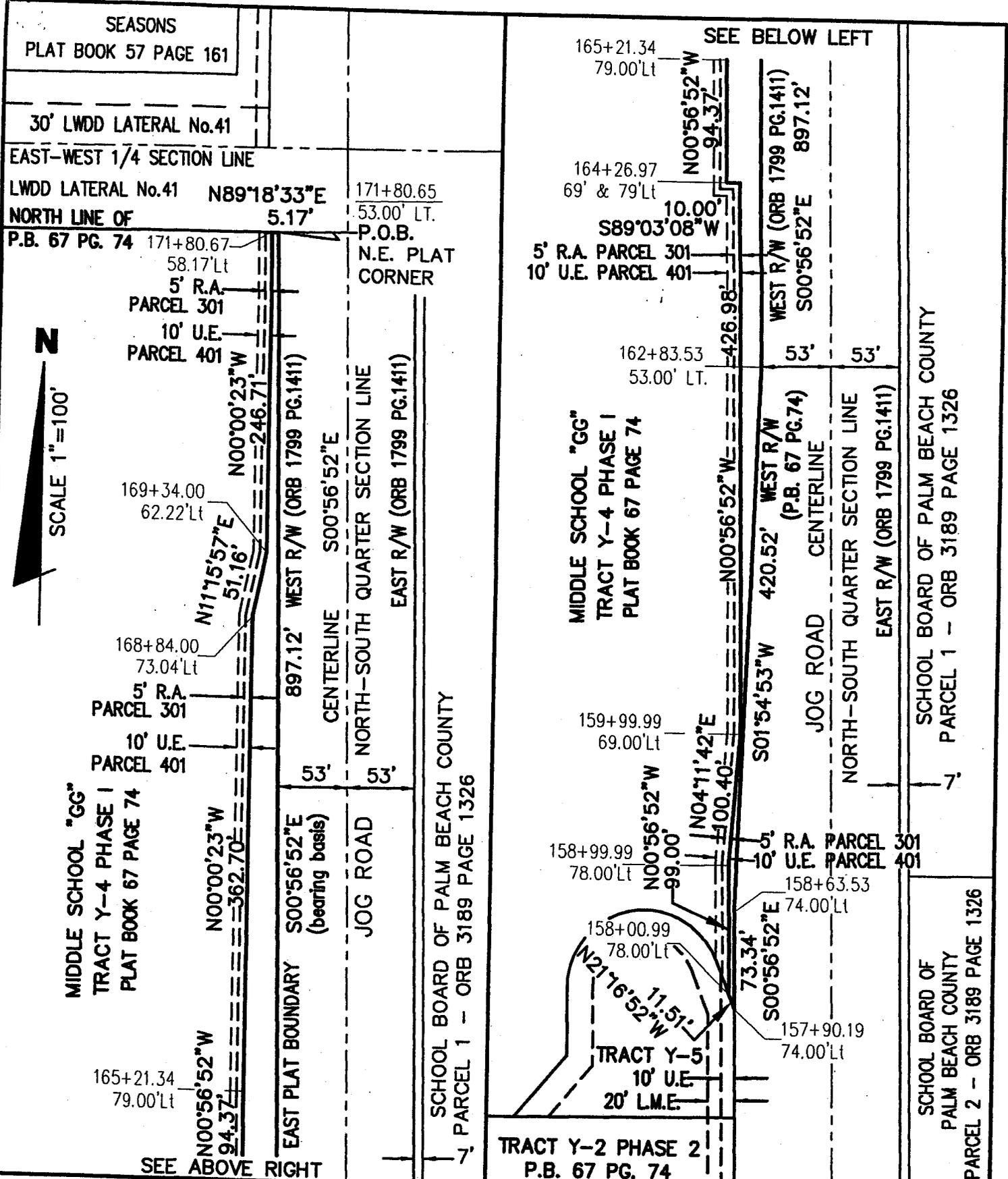
BEARING BASIS: S00°56'52"E ALONG THE EAST BOUNDARY OF THE PLAT OF MIDDLE SCHOOL "GG".

B
BROWN & PHILLIPS, INC.

PROFESSIONAL SURVEYING SERVICES
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LEGAL DESCRIPTION

DRAWN:	MDB	PROJ. No. 01-048
CHECKED:	JEP	SCALE: NONE
JOG ROAD		DATE: 8/14/07
Project No. 2001505		SHEET 3 OF 4



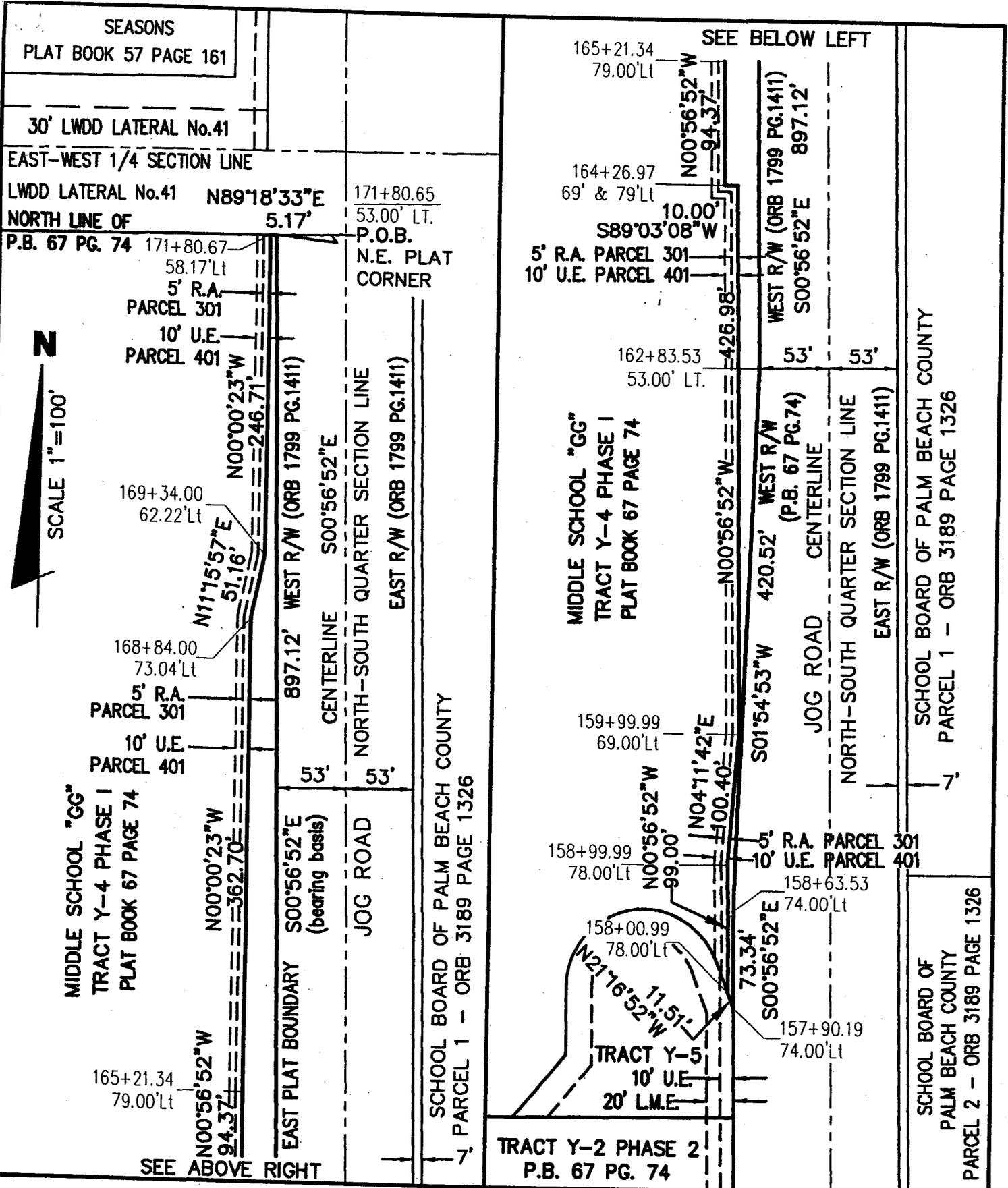
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PARCEL 101

SKETCH TO ACCOMPANY
 LEGAL DESCRIPTION
 THIS SKETCH IS NOT A SURVEY

DRAWN: MDB	PROJ. No. 01-048
CHECKED: JEP	SCALE: 1"=100'
JOG ROAD	DATE: 8/14/07
Project No. 2001505	SHEET 4 OF 4



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PARCEL 101

SKETCH TO ACCOMPANY
 LEGAL DESCRIPTION
 THIS SKETCH IS NOT A SURVEY

DRAWN: MDB	PROJ. No. 01-048
CHECKED: JEP	SCALE: 1"=100'
JOG ROAD	DATE: 8/14/07
Project No. 2001505	SHEET 4 OF 4