

Agenda Item # : 3-C-9

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: December 18, 2007

☒ **Consent**

☐ **Regular**

☐ **Workshop**

☐ **Public Hearing**

Department:

Submitted By: Engineering and Public Works

Submitted For: Right-of-Way Acquisition Section

Project No. 1998504

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: A License Agreement with the School Board of Palm Beach County (School Board) for work associated with Lyons Road from Glades Road to Yamato Road.

SUMMARY: This item will approve a License Agreement with the School Board to allow work to be done on Olympic Heights High School property in conjunction with the County's construction of Lyons Road.

District: 5 (PK)

Background and Justification: The plans for the Lyons Road from Glades Road to Yamato Road project require two right turn lanes at two driveways at Olympic Heights High School. The School Board has approved the conveyance of the additional right-of-way needed for the turn lanes. However, there will be additional work done outside of the right-of-way to be conveyed.

Therefore, the School Board has prepared a License Agreement to allow Palm Beach County to do work outside of the right-of-way on School Board property. This Agreement needs to be approved by the Board of County Commissioners (Board). Staff recommends that the Board approve the License Agreement for the work on school property as part of the construction of Lyons Road from Glades Road to Yamato Road.

Attachments:

1. Location Map
2. License Agreement with Exhibit "A" (3)

Recommended by:

Division Director

Date

Approved by:

Ag. T. Webb
County Engineer

11/27/07
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	\$ -0-	-0-	-0-	-0-	-0-
Operating Costs	-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	\$ -0-	-0-	-0-	-0-	-0-

ADDITIONAL FTE
POSITIONS (Cumulative) _____

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

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

This item has no additional fiscal impact.

C. Departmental Fiscal Review: R.D. Ward 11/14/07

III. REVIEW COMMENTS

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

Jan Dml 11.29.07
OFMB
(WD 11/29/07 SN 11/29/07 CN 11/29/07)

Jan J. Jacoby 11/29/07
Contract Dev and Control
(Jones 11/29/07)
This License Agreement
complies with our
review requirements.

B. Approved as to Form and Legal Sufficiency:

Paul F. J. 11/30/07
Assistant County Attorney

C. Other Department Review:

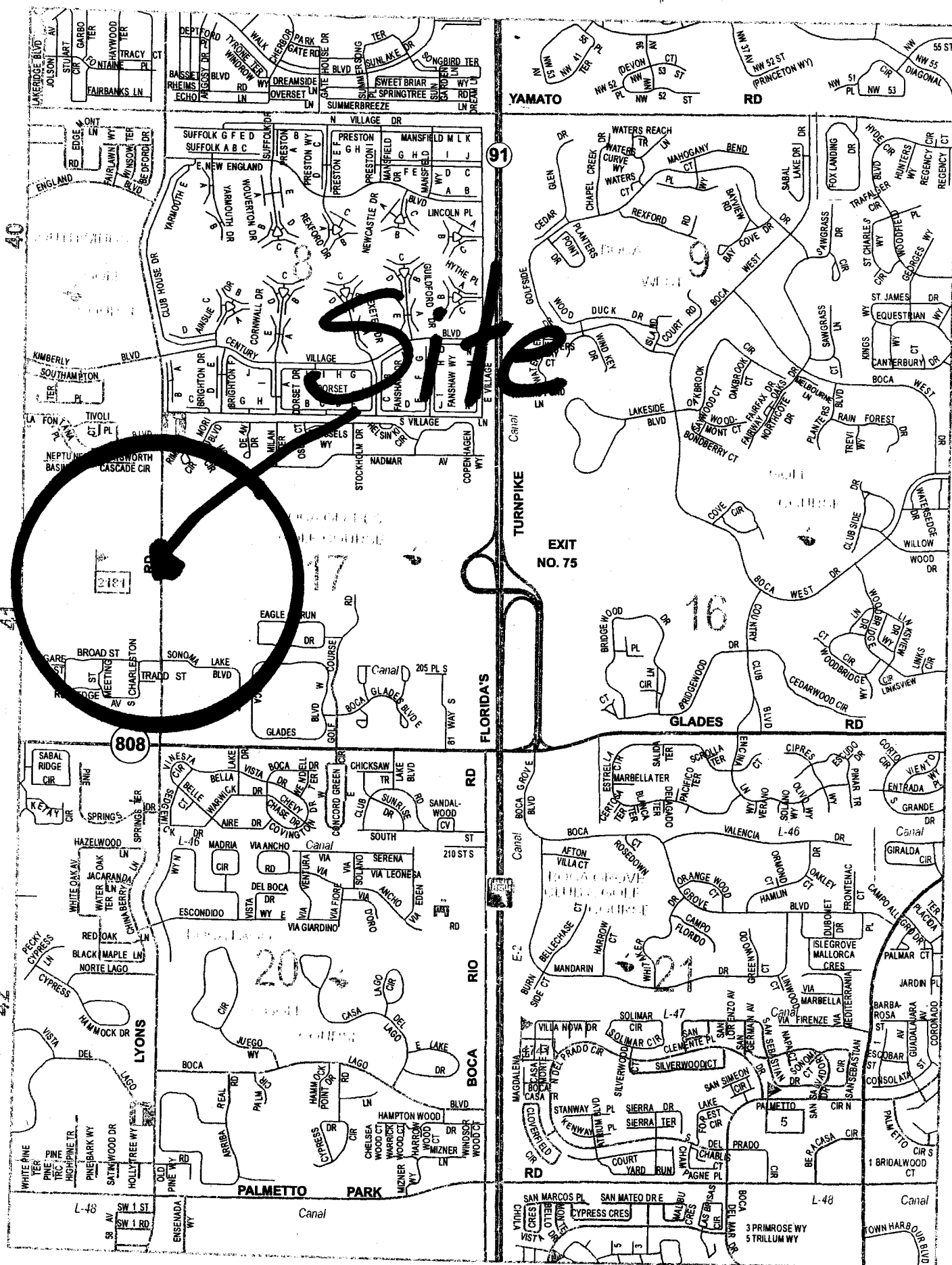
Department Director

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

Location Map

See pg 115

R42



See pg 129

LICENSE AGREEMENT

THIS IS A LICENSE AGREEMENT (the "Agreement") made _____, and granted by the SCHOOL BOARD OF PALM BEACH COUNTY, a corporate body politic of the State of Florida, hereinafter referred to as "School Board", in favor of PALM BEACH COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "County".

RECITALS

WHEREAS, School Board owns certain real property known as Olympic Heights High School located at 20101 Lyons Road, Boca Raton, FL 33434;

WHEREAS, County has requested a license from School Board to give County certain rights as described hereinafter to utilize the School Board Property (or a portion thereof) to facilitate the construction of a project to be undertaken by the County and its authorized contractors to construct Lyons Road from Glades Road to Yamato Road (hereinafter referred to as the "Project");

NOW THEREFORE, in consideration of the grants, agreements and covenants contained herein, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. The foregoing recitals are true and correct and incorporated herein.
2. The School Board hereby grants to County and its authorized contractors a non-exclusive license in and to the School Board Property as depicted on Exhibit "A" attached hereto by reference (the "License Property"). County shall be entitled to utilize the License Property during construction of the Project for the following purpose: to construct right-turn lanes (2) into the school property. The County shall coordinate with the School Board in the event material changes are made to the Plans and Specifications. The County shall obtain, or cause to be obtained, permits from all applicable regulatory agencies prior to commencement of Project construction. The County shall diligently pursue the Project to completion. This Agreement shall automatically terminate upon the earlier of completion of the Project or two years from the date of this License. Notwithstanding the foregoing, the County shall promptly deliver to the School Board a release of Agreement if so requested by School Board at any time after automatic termination hereof as aforesaid.
3. Prior to exercising the rights conferred hereunder, County shall locate any utility facilities within the License Property and shall contact and coordinate with all utilities providers that have facilities within the License Property. The County shall be solely responsible for and shall, at its sole cost and expense, promptly repair any damage arising out of County's exercise of the rights granted hereby and restore any improvements or landscaping now existing or constructed or installed hereinafter to the condition it was in prior to such damage, using materials of like kind and quality.

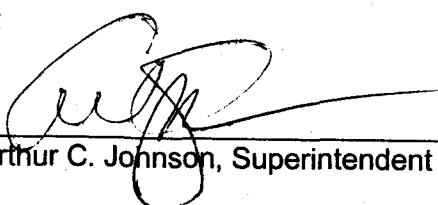
4. The County shall ensure that pedestrians, including students, teachers and parents, and vehicles, including school buses, shall have open and uninterrupted access to and from the School Board Property during school hours. The school hours shall mean during the times of day beginning when the early morning commute to school occurs continuing through when the afternoon commute from school occurs. Additionally, because of special events, athletics and extracurricular activities, any Project activities that may cause an interruption to such access outside of the aforementioned school hours shall be coordinated with the Principal of the impacted School by providing written notice at least three (3) working days prior to the start of the proposed activities. Notice of any emergency involving the County's exercise of the rights granted hereby shall be given to the Principal as soon as practicable. The County shall make its best efforts to conduct the Project activities that affect access to Olympic Heights High School during the portion of the year when Palm Beach County schools are not in session.
5. The County acknowledges and agrees that the rights granted by this Agreement are and shall be strictly limited to those specifically granted herein and that the County may not utilize the License Property for any purpose not specifically permitted hereby. The County further agrees to exercise the rights granted hereunder in a manner which minimizes the impact upon the School Board's use and enjoyment of the School Board Property. The County's exercise of the rights granted by this Agreement is at the County's sole risk.
6. School Board hereby retains all rights relating to the License Property not specifically granted by this Agreement including the right to use the License Property and any improvements now existing or constructed hereinafter therein. School Board also retains the right to grant to third parties additional rights in the License Property or the right to use the improvements therein, so long as the grant of such additional rights will not interfere with the rights granted to County hereunder.
7. The School Board's interest in the School Board Property shall not be subject to liens arising from County's use of the License Property, or exercise of the rights granted hereunder. The County shall promptly cause any lien imposed against the School Board Property relating to the Project to be discharged or transferred to bond. Nothing herein shall be construed as granting to County a real property interest in the School Board Property.
8. School Board and County acknowledge the waiver of sovereign immunity for liability in tort contained in Florida Statutes Section 768.28, the State of Florida's partial waiver of sovereign immunity, and acknowledge that such statute permits actions at law to recover damages in tort for money damages up to the limits set forth in such statute for death, personal injury or damage to property caused by the negligent or wrongful acts or omissions of an employee acting within the scope of the employee's office or employment. School Board and County agree to be responsible for all such claims and damages, to the extent and limits provided in Florida Statutes Section 768.28, arising from the actions of their respective employees. The parties acknowledge that the foregoing shall not constitute an agreement by either party to indemnify the other, nor a waiver of sovereign immunity, nor a waiver of any defense the parties may have under such statute, nor as consent to be sued by third parties.

9. The County shall require its contractors and subcontractors to maintain and keep in full force and effect General Liability Insurance in an amount not less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) general aggregate, bodily injury and property damage liability coverage and Workers Compensation covering all employees in accordance with Chapter 440 Florida Statutes. The General Liability policy shall include coverage for the Recreation Field, Operations, Contractual Liability, Independent Contractors Contractual Liability, and Broad Form Property Damage Liability coverages. In addition, County shall require its contractors and subcontractors to maintain Business Automobile Liability at a limit of liability not less than One Million Dollars (\$1,000,000) Each Occurrence for all owned, non-owned and hired automobiles. In the event the County's contractors or subcontractors do not own any automobiles, they shall maintain Hired & Non-Owned Auto Liability in such amount. Coverage shall be provided on a primary basis. Except for Workers Compensation and Automobile Liability, all insurance policies shall name the School Board as Additional Insured. Such insurance shall be issued by an insurance company licensed to do business in the State of Florida and approved by the School Board. A Certificate of Insurance evidencing such insurance coverage shall be provided to the School Board prior to the commencement of any work by the County's contractors and subcontractors pursuant to this Agreement. Such Certificate shall require at least thirty (30) days prior notice of cancellation or adverse material change in coverage. In no event shall the limits of said insurance policies be considered as limiting the liability of the County's contractors and subcontractors under this Agreement.
10. County hereby accepts the License Property "As Is", without warranty or representation and subject to zoning and other governmental restrictions, matters reflected on any plat relating to the License Property, and all easements, restrictions, conditions, encumbrances and other matters of record.
11. This Agreement shall be governed by, construed and enforced in accordance with, the laws of the State of Florida. Venue in any action, suit or proceeding in connection with this Agreement shall be in a state court of competent jurisdiction in Palm Beach County, Florida.
12. In the event that any section, paragraph, sentence, clause, or provision hereof be held by a court of competent jurisdiction to be invalid, such shall not effect the remaining portions of this Agreement and the same shall remain in full force and effect.
13. This Agreement contains the entire understanding and agreement of the parties with respect to the subject matter hereof. No amendment shall be effective unless the same is in writing and signed by all parties.
14. No party shall be considered the author of this Agreement since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document so as to arrive at a final agreement. Thus, the terms of this Agreement shall not be strictly construed against one party as opposed to the other party based upon who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof be held by a court of competent jurisdiction to be invalid, such shall not effect the remaining portions of this Agreement and the same shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth hereinabove.

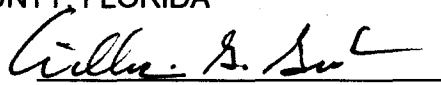
ATTEST:

By:


Arthur C. Johnson, Superintendent

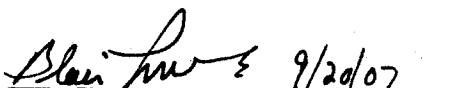
SCHOOL BOARD OF PALM BEACH
COUNTY, FLORIDA

By:


William G. Graham, Chairman

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By:

 9/29/07
School Board Attorney

ATTEST:

Sharon R. Bock, Clerk and Comptroller

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By:

Deputy Clerk

By:

Addie L. Greene, Chairperson

(SEAL)

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By:

County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

By:


Pamela A. Fanning
Department Director

EXHIBIT "A"
SHEET 1 OF 2 - LEGAL DESCRIPTION

TEMPORARY CONSTRUCTION EASEMENT

A PORTION OF TRACTS 32 AND 33 AND A 30 FOOT WIDE ROADWAY LYING IN BLOCK 77, ACCORDING TO PALM BEACH FARMS COMPANY PLAT NO. 3 AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF SOUTH LINE OF LAKE WORTH DRAINAGE DISTRICT CANAL L-44 AS DESCRIBED IN OFFICIAL RECORDS BOOK 6872 AT PAGE 374 AND THE EXISTING WEST RIGHT OF WAY LINE OF LYONS ROAD DESCRIBED IN OFFICIAL RECORDS BOOK 2934 AT PAGE 1767 BOTH OF SAID PUBLIC RECORDS, THENCE SOUTH 00°22'17" EAST ALONG THE SAID WEST RIGHT OF WAY LINE OF LYONS ROAD HAVING A 108 FOOT RIGHT OF WAY A DISTANCE OF 914.31 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUE SOUTH 00° 22' 17" EAST A DISTANCE OF 203.73 FEET; THENCE SOUTH 12° 02' 10" WEST A DISTANCE OF 51.20 FEET; THENCE SOUTH 00° 22' 17" EAST ALONG THE WEST LINE OF AN 11 FEET TURNLANE A DISTANCE OF 420.05 FEET; THENCE SOUTH 89° 37' 43" WEST A DISTANCE OF 48.00 FEET; THENCE NORTH 00° 22' 17" WEST A DISTANCE OF 93.78 FEET; THENCE NORTH 89° 37' 43" EAST A DISTANCE OF 38.00 FEET; THENCE NORTH 00° 22' 17" WEST A DISTANCE OF 327.36 FEET; THENCE NORTH 12° 02' 10" EAST A DISTANCE OF 51.20 FEET; THENCE NORTH 00° 22' 17" WEST A DISTANCE OF 202.64 FEET; THENCE NORTH 89° 37' 43" EAST A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING

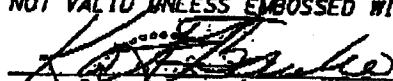
SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA AND CONTAIN 10.313 SQUARE FEET, MORE OR LESS.

BEARINGS SHOWN HEREON ARE RELATIVE TO THE NATIONAL GEODETIC SURVEY, TRANSVERSE MERCATOR COORDINATES, FLORIDA EAST ZONE, NORTH AMERICAN DATUM (NAD) OF 1983 (1990 ADJUSTMENT) THE GRID BEARING BEING NORTH 00°22'17" WEST ALONG THE CENTERLINE OF THE PLATTED ROAD RIGHT-OF-WAY EAST OF SAID BLOCK 77.


SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE ATTACHED SKETCH AND THE ABOVE LEGAL DESCRIPTION ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THE ATTACHED EASEMENT SKETCH AND ABOVE LEGAL DESCRIPTION MEET THE INTENT OF THE MINIMUM TECHNICAL STANDARDS FOR LAND SURVEYING IN THE STATE OF FLORIDA AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS PURSUANT TO SECTION 472.027, FLORIDA STATUTES AND ADOPTED IN CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, EFFECTIVE SEPTEMBER 1, 1981.

NOT VALID UNLESS EMBOSSED WITH SURVEYORS SEAL.


KATHERINE E. BANKO
PROFESSIONAL SURVEYOR AND MAPPER
NO. 3503, STATE OF FLORIDA
LB NO. 37334

PALM BEACH COUNTY ROADWAY
PROJECT NO. 98-504
LYONS ROAD
PARCEL NO. 700

 **CROSSROADS**
ENGINEERING & SURVEYING
An Erdman Anthony Company
1402 ROYAL PALM BEACH BLVD., BLOC 500
ROYAL PALM BEACH, FLORIDA 33411
PH 561-753-9123 FAX 561-753-9124 SD-29912 LB-7334

LEGAL DESCRIPTION
SOUTH TURNLANE
TEMPORARY
CONSTRUCTION EASEMENT

CRES No. 98102 REV. 09/06 10/10/02 1 OF 2

A hand-drawn sketch map titled "LOCATION MAP" showing the intersection of various streets. The map includes labels for "HUNTERS BLVD", "MORI BLVD", "LYONS ROAD", and "GLADES ROAD". A handwritten note "THIS SKETCH" is present. The map is drawn on a grid with some areas shaded in black.

BLOCK 77
PALM BEACH FARMS
COMPANY PLAT NO. 3
P.B.2. PGS 45-54.
PALM BEACH
COUNTY RECORDS

LWD • LAKE WORTH DRAINAGE
DISTRICT
NTS • NOT TO SCALE
(P) • PLATTED DATA
P.B. • PLAT BOOK
PGS. • PAGES
POB • POINT OF
BEGINNING
POC • POINT OF
COMMENCEMENT
R/W • RIGHT OF WAY

THIS IS NOT A SURVEY.

**PALM BEACH COUNTY ROADWAY
PROJECT NO. 98-504
LYONS ROAD
PARCEL NO. 700**



An Erdman Anthony Company
1402 ROYAL PALM BEACH BLVD., SUITE 500
ROYAL PALM BEACH, FLORIDA 33411
PH 561-753-9722 FAX 561-753-9724 CD-2592 LD-2234

**SKETCH TO ACCOMPANY
LEGAL DESCRIPTION
SOUTH TURNLANE TEMPORARY
CONSTRUCTION EASEMENT**

CRS No. 98102	REV. 6/905	10/10/02	2 OF 2
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EXHIBIT "A"
SHEET 1 OF 2 - LEGAL DESCRIPTION

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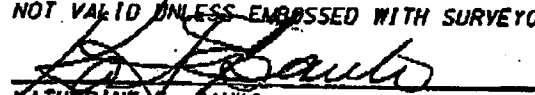
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KATHERINE E. BANKO
PROFESSIONAL SURVEYOR AND MAPPER
NO. 9503, STATE OF FLORIDA
LB No. 7334

PALM BEACH COUNTY ROADWAY
PROJECT NO. 98-504
LYONS ROAD
PARCEL NO. 701

**CROSSROADS**
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ROYAL PALM BEACH, FLORIDA 33411
PH 561-753-9120 FAX 561-753-9724 GP-25912 LB-1334

LEGAL DESCRIPTION
SOUTH TURNLANE
TEMPORARY
CONSTRUCTION EASEMENT

CRES No. 09102 REV. 08/2005 10/10/02 1 OF 2

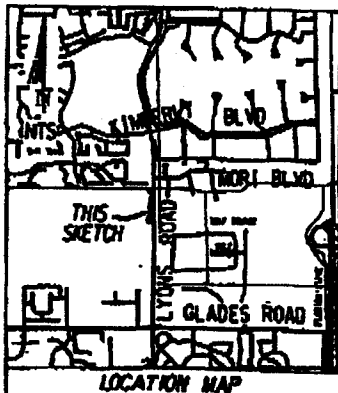
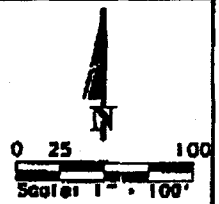


EXHIBIT "A" - SHEET 2 OF 2
LWDD L-44 CANAL



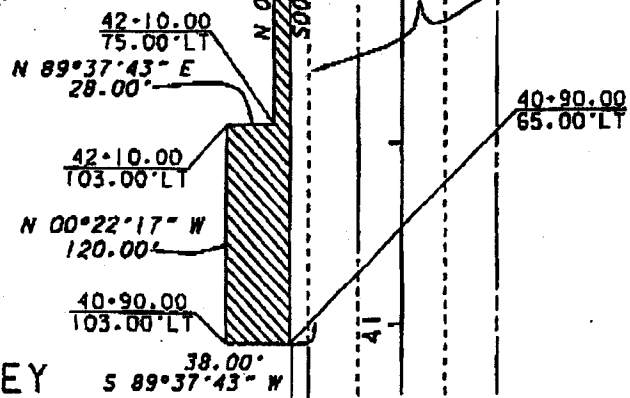
BLOCK 77
PALM BEACH FARMS
COMPANY PLAT NO. 3
P.B. 2, PGS 45-54,
PALM BEACH
COUNTY RECORDS

LEGEND:

- LWDD • LAKE NORTH DRAINAGE DISTRICT
- NTS • NOT TO SCALE
- (P) • PLATTED DATA
- P.B. • PLAT BOOK
- PGS. • PAGES
- POB • POINT OF BEGINNING
- POC • POINT OF COMMENCEMENT
- R/W • RIGHT OF WAY

THIS IS NOT A SURVEY

TRACT 1
TRACT 32



POB
50+04.03
54.00' LT
INTERSECTION
EXISTING W R/W LINE
LYONS ROAD AND
SOUTH LINE OF LWDD
CANAL L-44

45+86.51
54.00' LT
S 12°02'10" W
51.20'

45+36.51
65.00' LT

40+90.00
65.00' LT

PALM BEACH COUNTY ROADWAY
PROJECT NO. 98-504
LYONS ROAD
PARCEL NO. 701

CrossROADS
ENGINEERING & SURVEYING
An Erdman Anthony Company
1402 ROYAL PALM BEACH BLVD., BLDG 500
ROYAL PALM BEACH, FLORIDA 33411
PH 561-753-9723 FAX 561-753-9724 DP-25912 1.0-7324

SKETCH TO ACCOMPANY
LEGAL DESCRIPTION
SOUTH TURNLANE TEMPORARY
CONSTRUCTION EASEMENT

CRES No. 98102 REV. 09/2005 10/10/02 2 OF 2