

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: April 15, 2008

Consent Regular
 Workshop Public Hearing

Department:

Submitted By: Engineering and Public Works

Submitted For: Right-of-Way Acquisition Section

Project No.: 2003507A

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

- A) Accept a Warranty Deed for Parcel 101 on Congress Avenue.
- B) Approve payment of a counter-offer in the amount of \$257,160, which is inclusive of attorney fees for Parcel 101.

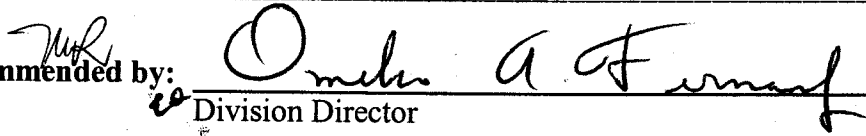
Summary: This action will accept a Warranty Deed for a parcel of land needed for right-of-way purposes and approve a counter-offer in the amount of \$257,160 for the purchase of the parcel of land, designated as Parcel 101. This parcel is required for the construction of improvements on the Congress Avenue south of Lantana Road to Lantana Road project.

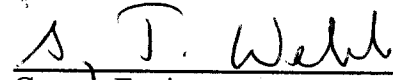
District: 3 (PK)

Background and Justification: On January 9, 2007, the Palm Beach County Board of County Commissioners approved a request granting approval to appraise and acquire land, rights-of-way and easements for projects included in the adopted Five-Year Road Program. Based on appraisals done by Palm Beach County, an offer of \$188,000 was made to the owner of a parcel of land designated as Parcel 101. This parcel is to be utilized as road right-of-way required for the Congress Avenue, south of Lantana Road to Lantana Road project. The owner of Parcel 101 did not accept the offer and presented a counter-offer in the amount of \$375,901. Staff rejected this counter-offer and negotiated a settlement of \$257,160. This counter-offer amount includes the property owner's attorney fees in the amount of \$17,160. Staff has reviewed this counter-offer and recommends approval. The acceptance of this Warranty Deed and counter-offer will avoid lengthy and costly litigation, as well as additional professional fees associated with the Condemnation process.

Attachments:

- 1. Location Map
- 2. Warranty Deed with Exhibit "A"
- 3. Certificate of Value
- 4. Counter-Offer Letter

Recommended by:  3/14/08
 Division Director Date

Approved by:  3/24/08
 County Engineer Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	\$257,160	-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	\$257,160	-0-	-0-	-0-	-0-

ADDITIONAL FTE POSITIONS (Cumulative) _____

Is Item Included in Current Budget? Yes X No _____
 Budget Acct No.: Fund 3504 Dept. 361 Unit 0951 Object 6120
 Program _____

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

Road Impact Fee Fund - Zone 4
 Congress Ave/S of Lantana Rd to Lantana Rd

Counter Offer - Parcel 101	\$257,160.00
Appraised Value	<\$188,000.00>
	\$ 69,160.00

C. Departmental Fiscal Review: R. Ward 3/13/08

III. REVIEW COMMENTS

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

 OFMB [Signature] 3/21/08

[Signature] 3/28/08
 Contract Dev. and Control

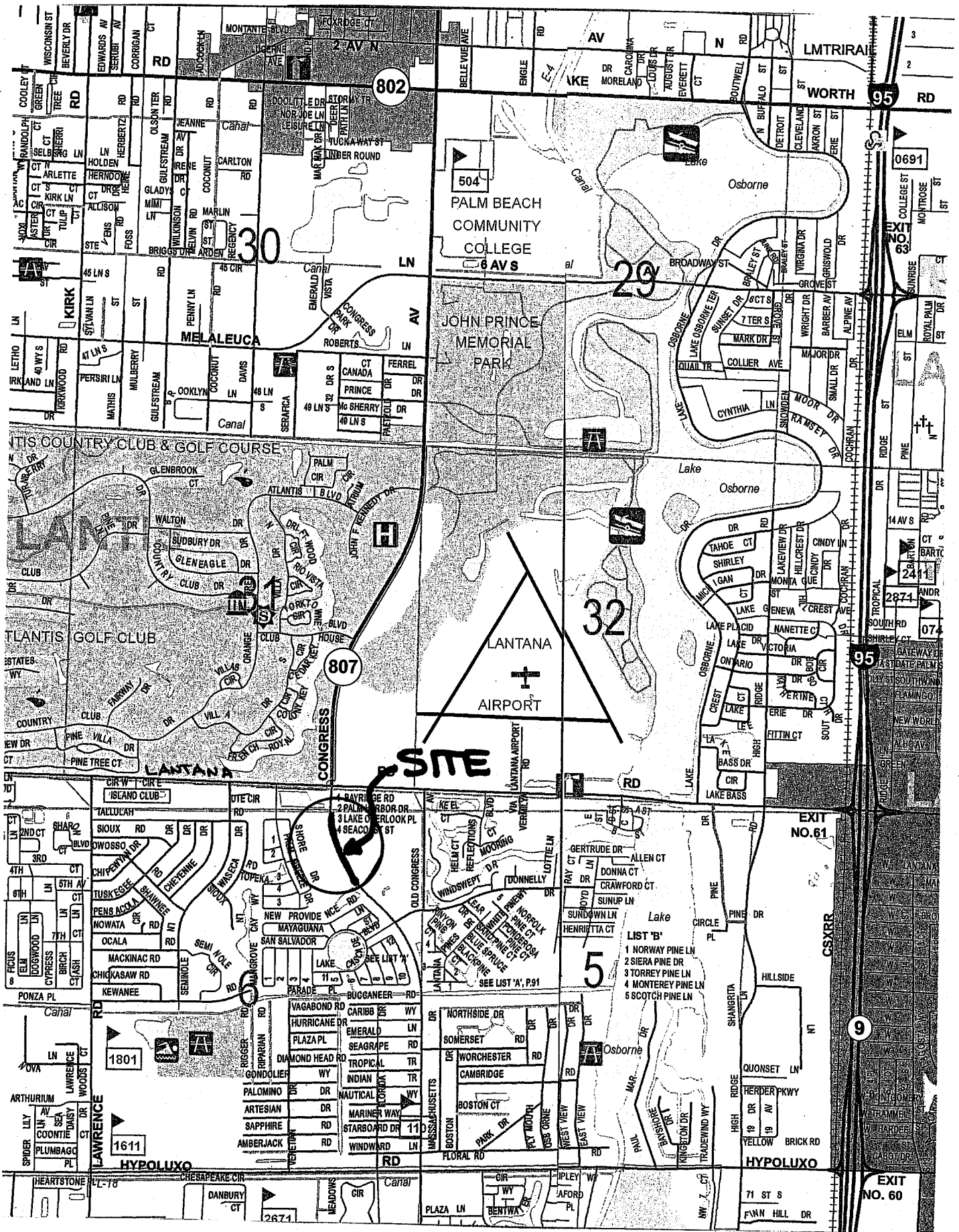
B. Approved as to Form and Legal Sufficiency:
Paul F. [Signature] 3/31/08
 Assistant County Attorney

C. Other Department Review:

 Department Director

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

LOCATION MAP



Return to: Palm Beach County
Name: R/W Acquisition Section
Post Office Box 21229
Address: West Palm Beach, Florida 33416
Attn: Ed Handy
Acct. No.: 1010 W/C BOX 1066

This Instrument Prepared by:
Name: Paul F. King
Assistant County Attorney
Post Office Box 21229
Address: West Palm Beach, Florida 33416

NOT TO BE RECORDED
WITHOUT BOARD OF COUNTY
COMMISSIONERS ACCEPTANCE DATE

PCN: 00-43-45-06-00-000-1040 SPACE ABOVE THIS LINE FOR PROCESSING DATA
(Individual/Partnership) PROJECT NO. 2003507A
PROJECT: Congress Ave./So. of Lantana-Lantana
PARCEL NO. 101

WARRANTY DEED

THIS WARRANTY DEED, made this 6th day of MARCH, 2008, by W.G. Lassiter, Jr. & Aneice R. Lassiter, husband & wife (as to an undivided 1/3 interest), Richard S. Johnson (as to an undivided 1/3 interest), and Laco, Inc., a Florida Corporation (as to an undivided 1/3 interest) by virtue of Deed recorded in O.R.B. 3608, Pg. 1383 And Deed recorded in O.R.B. 7631, Pg. 1961, Public records of Palm Beach County, Florida, hereinafter called grantors, to PALM BEACH COUNTY, a political subdivision of the state of Florida, hereinafter called grantee.

WITNESSETH: That the grantor, for and in consideration of the sum of TEN (\$10.00) dollars and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Palm Beach County, Florida, viz:

Property more particularly described in Exhibit "A" attached hereto and made a part hereof.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND the grantors hereby covenants with said grantee that said grantors are lawfully seized of said land in fee simple; that the grantors have good right and lawful authority to sell and convey said land; that the grantors hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes subsequent to December 31, ~~2006~~ 2007, ca

IN WITNESS WHEREOF, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:
(Signature of two witnesses required by Florida law)

Lisa Lynn
WITNESS SIGNATURE (Required)

Lisa Lynn
TYPED OR PRINTED NAME OF WITNESS

Martha Owens
WITNESS SIGNATURE (Required)

MARTHA OWENS
TYPED OR PRINTED NAME OF WITNESS

W.G. Lassiter, Jr.
SIGNATURE OF GRANTOR
W.G. Lassiter, Jr.

TYPED OR PRINTED NAME OF GRANTOR
505 South Flagler Drive, #1010
West Palm Beach, FL 33401
MAILING ADDRESS


Aneice R. Lassiter
SIGNATURE OF GRANTOR
Aneice R. Lassiter

TYPED OR PRINTED NAME OF GRANTOR
505 South Flagler Drive, #1010
West Palm Beach, FL 33401
MAILING ADDRESS

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, personally appeared W.G. Lassiter, Jr and Aneice R. Lassiter who is / are personally known to me or who has / have produced _____ as identification and who did / ~~did not~~ take an oath.

WITNESS my hand and official seal this 6th day of MARCH, 2008.

NOTARY PUBLIC-STATE OF FLORIDA
 Martha Owens
Commission # DD541642
Expires: MAY 29, 2010
Bonded Thru Atlantic Bonding Co., Inc.

Signed: Martha Owens
Notary Public in and for
the County and State aforementioned

Signed, sealed and delivered
in the presence of:

Parties of the first part:

Lisa Lyda
Signature of Witness (Required)

Lisa Lyda
Typed or Printed Name of Witness

Gina Potter
Signature of Witness (Required)

Gina Potter
Typed or Printed Name of Witness

Richard S. Johnson
Richard S. Johnson

Mailing Address

STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 5th day of March, 2008
~~2007~~, by Richard S. Johnson, who is personally known to me or who has
produced _____ as identification and who did (did not) take
an oath.

Notary Seal:



Lisa Lyda
Notary Public in and for the County
and State aforementioned

Signed, sealed and delivered
in the presence of:

Lisa Lyda

Signature of Witness (Required)

Lisa Lyda

Typed or Printed Name of Witness

Gina Pitter

Signature of Witness (Required)

Gina Pitter

Typed or Printed Name of Witness

Laceo, Inc.

Corporation Name-Typed or Printed

By: James P. Kintz

Signature of President

JAMES P. KINTZ

Typed or Printed Name of President

Attest: _____

Signature of Secretary

Typed or Printed Name of Secretary

Mailing Address

STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 5th day of March, 2008
by James Kintz of Laceo, Inc., a
Corporation, on behalf of the corporation. He/she is personally known to me or has
produced _____ as identification.

Witness my hand and official seal this 5th day of March, 2007-2008

Notary Seal:

Signed: Lisa Lyda

Notary Public in and for the County
and State aforementioned

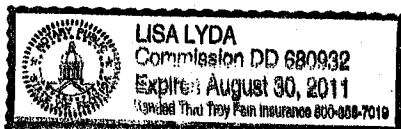
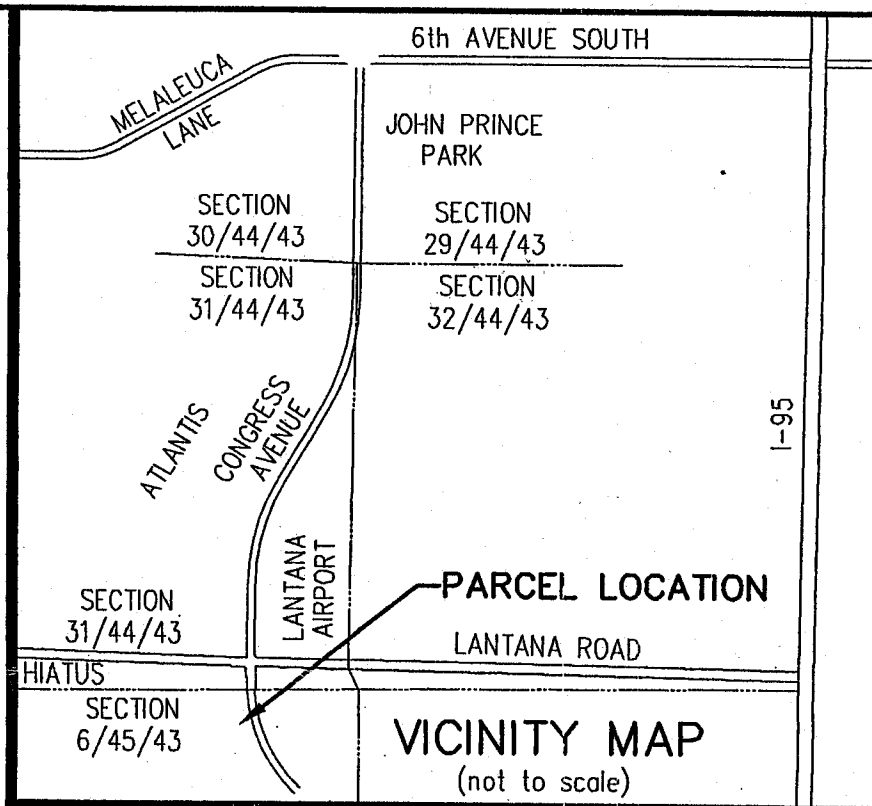


EXHIBIT "A"
1094

ABBREVIATIONS

- CL - CENTERLINE
- (C) - CALCULATED DIMENSION
- (D) - DIMENSION PER RECORD DEED
- O.R.B.- OFFICIAL RECORD BOOK
- P.B.- PLAT BOOK
- P.O.B.- POINT OF BEGINNING
- P.O.C.- POINT OF COMMENCEMENT
- R/W - RIGHT-OF-WAY
- STA - STATION
- TCE - TEMPORARY CONSTRUCTION EASEMENT
- 'L - DISTANCE LEFT OF BASELINE
- 'R - DISTANCE RIGHT OF BASELINE
- R= - RADIUS
- Δ= - CENTRAL ANGLE
- L= - ARC LENGTH
- PCC - POINT OF COMPOUND CURVATURE

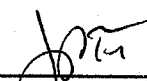


NOTES:


- 1) THE DESCRIPTION SKETCH AND THE DESCRIPTION TEXT COMPRISE THE COMPLETE LEGAL DESCRIPTION. THE LEGAL DESCRIPTION IS NOT VALID UNLESS BOTH THE DESCRIPTIONS AND THE SKETCHES ACCOMPANY EACH OTHER.
- 2) 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.
- 3) ALL DIMENSIONS SHOWN ON THE PROPOSED PARCELS ARE CALCULATED. DIMENSIONS SHOWN ON THE PARENT TRACT PARCELS ARE PER THE RECORD DEED, UNLESS NOTED OTHERWISE.

I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE ATTACHED LEGAL DESCRIPTIONS AND SKETCHES ARE TRUE, ACCURATE, AND WERE PREPARED UNDER MY DIRECTION.

I FURTHER CERTIFY THAT SAID LEGAL DESCRIPTIONS ARE IN COMPLIANCE WITH THE APPLICABLE PORTIONS OF THE MINIMUM TECHNICAL STANDARDS, CHAPTER 61G17-6.004, FLORIDA ADMINISTRATIVE CODE, AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS PURSUANT TO SECTION 472.027, FLORIDA STATUTES.



 JOHN E. PHILLIPS III
 PROFESSIONAL LAND SURVEYOR
 STATE OF FLORIDA No. 4826
 DATE: JAN 09 2008


BROWN & PHILLIPS, INC.
 PROFESSIONAL SURVEYING SERVICES
 CERTIFICATE OF AUTHORIZATION # LB 6473
 901 NORTHPOINT PKWY, SUITE 305, W.P.B. FLORIDA 33407
 (561) 615-3988, (561) 615-3986 FAX

LEGAL DESCRIPTION

DRAWN: DKN/MB	PROJ. No. 05-016
CHECKED: TB	SCALE: NONE
DATE: 12/19/07	SHEET 1 OF 4

CONGRESS AVENUE
 R/W PARCEL 101

EXHIBIT "A"

2 of 4

**FEE SIMPLE RIGHT-OF-WAY
PARCEL No.101**

A PARCEL OF LAND LYING IN SECTION 6, TOWNSHIP 45 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, BEING A PORTION OF PARCEL 1 AS DESCRIBED IN OFFICIAL RECORDS BOOK 7631, PAGE 1961 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF SAID PARCEL 1 AS DESCRIBED IN OFFICIAL RECORDS BOOK 7631, PAGE 1961, LYING ON THE WESTERLY RIGHT-OF-WAY OF CONGRESS AVENUE, RECORDED IN OFFICIAL RECORD BOOK 552, PAGE 641 OF SAID PUBLIC RECORDS, BEING A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 1960.08 FEET, WHERE A RADIAL LINE BEARS N50°42'40"E; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 1, S44°06'03"W FOR 10.07 FEET TO A CURVE CONCENTRIC WITH THE SAID WESTERLY RIGHT-OF-WAY, AND HAVING A RADIUS OF 1970.08 FEET; THENCE NORTHERLY, ALONG SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 19°37'44" FOR 674.93 FEET TO A POINT OF COMPOUND CURVATURE WITH A TANGENT CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 1735.00 FEET; THENCE NORTHERLY, ALONG SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 13°15'16" FOR 401.36 FEET TO A PARCEL FOR RIGHT-OF-WAY OF CONGRESS AVENUE, RECORDED IN OFFICIAL RECORDS BOOK 4376, PAGE 852 OF SAID PUBLIC RECORDS; THENCE ALONG THE BOUNDARY OF SAID RIGHT-OF-WAY PARCEL, N81°59'19"E FOR 4.49 FEET TO SAID WESTERLY RIGHT-OF-WAY CURVE HAVING A RADIUS OF 1960.08 FEET; THENCE SOUTHERLY, ALONG SAID RIGHT-OF-WAY AND CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 31°16'39" FOR 1070.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 9993 SQUARE FEET, MORE OR LESS.

BEARING BASIS: N89°33'54"E ALONG THE NORTH LINE OF SECTION 6.



BROWN & PHILLIPS, INC.

PROFESSIONAL SURVEYING SERVICES

CERTIFICATE OF AUTHORIZATION # LB 6473

901 NORTHPOINT PKWY, SUITE 305, W.P.B. FLORIDA 33407
(561) 615-3988, (561) 615-3986 FAX

LEGAL DESCRIPTION

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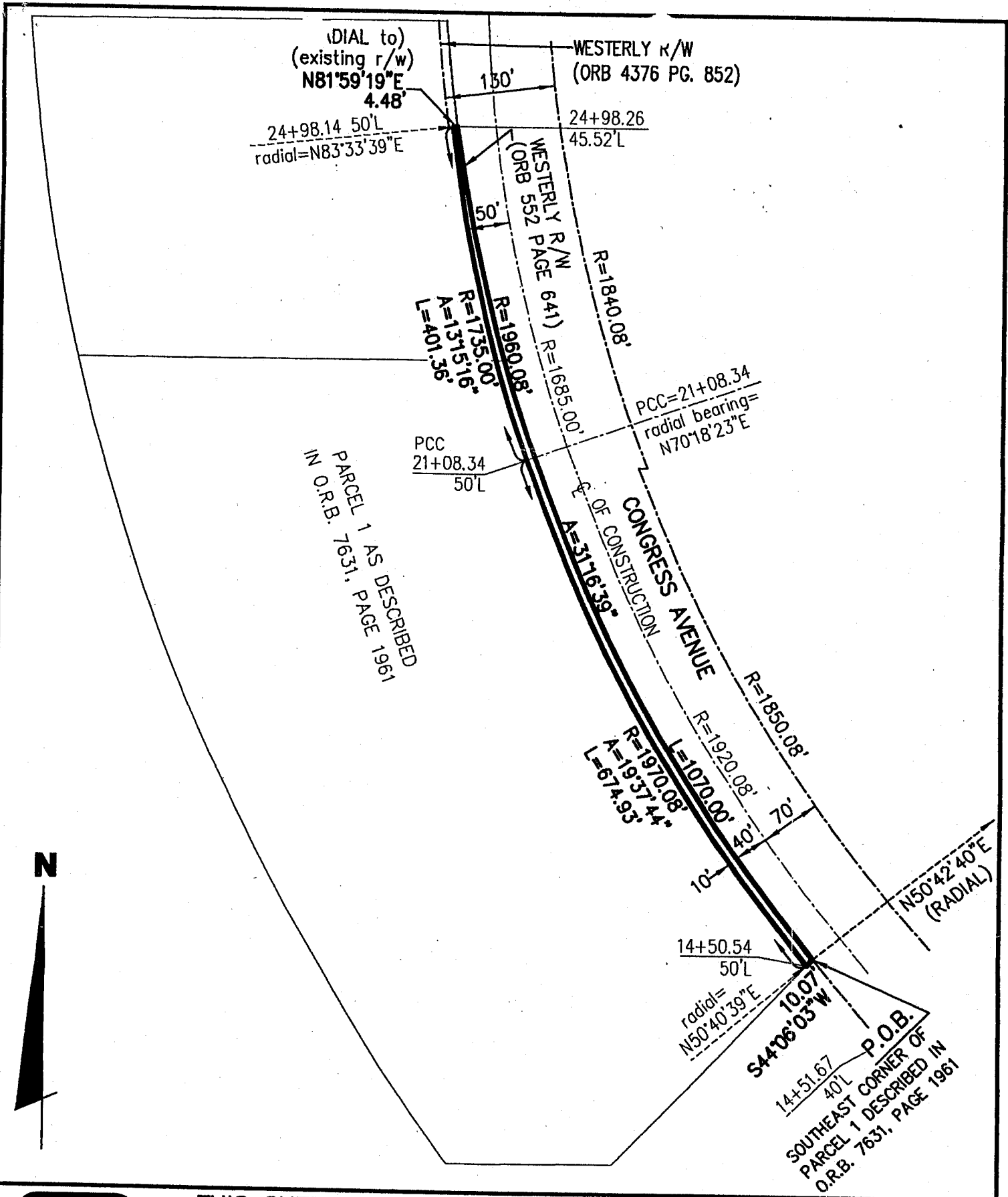
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DATE: 12/19/07	SHEET 2 OF 4
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CONGRESS AVENUE
R/W PARCEL 101

EXHIBIT "A"

3 of 4



THIS SKETCH IS NOT A SURVEY

BROWN & PHILLIPS, INC.
 PROFESSIONAL SURVEYING SERVICES
 CERTIFICATE OF AUTHORIZATION # LB 6473
 901 NORTHPOINT PKWY, SUITE 305, W.P.B. FLORIDA 33407
 (561) 615-3988, (561) 615-3986 FAX

SKETCH TO ACCOMPANY
 LEGAL DESCRIPTION

DRAWN: DKN/MB	PROJ. No. 05-016
CHECKED: TB	SCALE: 1"=150'
DATE: 12/19/07	SHEET 3 OF 4
CONGRESS AVENUE R/W PARCEL 101	

CERTIFICATE OF VALUE

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION CERTIFICATE OF VALUE

(DELETE APPROPRIATE [BRACKETED] WORD)

F. P. #: N/A
State Road: 807
County: Palm Beach
Managing District: 4th
FA No.: N/A
Parcel No.: 101

I certify to the best of my knowledge and belief, that:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, unbiased, professional analyses, opinions, and conclusions.
3. I have [no /] present or prospective interest in the property that is the subject of this report, and I have [no /] personal interest or bias with respect to the parties involved. (Describe fully the interest or bias on an addendum to this certificate.)
4. My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.
5. My analyses, opinions, or conclusions were developed and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice, and the provisions of Chapter 475, Part II, Florida Statutes.
6. I have made a personal inspection of the property that is the subject of this report and I have afforded the property owner the opportunity to accompany me at the time of the inspection. I have also made a personal field inspection of the comparable sales relied upon in making this appraisal. The subject and the comparable sales relied upon in making this appraisal were as represented by the photographs contained in this appraisal.
7. No persons other than those named herein provided significant professional assistance to the person signing this report. (The name of each individual providing significant professional assistance must be stated on an addendum to this certificate, together with a statement of whether such individual is a state registered, licensed or certified appraiser and, if so, his or her registration, license or certification number.)
8. I understand that this appraisal is to be used in connection with the acquisition of right-of-way for a transportation facility to be constructed by the State of Florida or Palm Beach County with the assistance of Federal-aid highway funds, or other Federal or State funds.
9. This appraisal has been made in conformity with the appropriate State laws, regulations, policies and procedures applicable to appraisal of right-of-way for transportation purposes; and, to the best of my knowledge, no portion of the property value entered on this certificate consists of items which are noncompensable under the established law of the State of Florida.
10. I have not revealed the findings or results of this appraisal to anyone other than the proper officials of Palm Beach County and I will not do so until so authorized by the County officials, or until I am required by due process of law, or until I am released from this obligation by having publicly testified as to such findings.
11. Regardless of any stated limiting condition or assumption, I acknowledge that this appraisal report and all maps, data, summaries, charts and other exhibits collected or prepared under this agreement shall become the property of Palm Beach County without restriction or limitation on their use.
12. Statements supplemental to this certification required by membership or candidacy in a professional appraisal organization, are described on an addendum to this certificate and, by reference, are made a part hereof.

Based upon my independent appraisal and the exercise of my professional judgment, my opinion of the market value for the part taken, including net severance damages after special benefits, if any, of the property appraised as of the 16th day of October, 2007, is: \$188,000

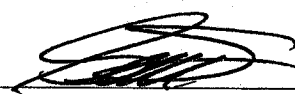
Market value should be allocated as follows:

LAND	\$ <u>188,000</u>
IMPROVEMENTS	\$ <u>0</u>
NET DAMAGES &/OR COST TO CURE	\$ <u>0</u>
TOTAL	\$ <u>188,000</u>

LAND AREA: English (Ac/SF) 9,398 SF
PROPERTY TYPE Vacant Commercial Land

October 23, 2007

DATE


APPRAISER
Glen L. Spivey, MAI, President
State Certified General Appraiser #0001388

COUNTER-OFFER
LETTER

**JONES
FOSTER
JOHNSTON
& STUBBS, P.A.**
Attorneys and Counselors

Flagler Center Tower, Suite 1100
505 South Flagler Drive
West Palm Beach, Florida 33401
Telephone (561) 659-3000

RECEIVED MAR 05 2008
Mailing Address
Post Office Box 3475
West Palm Beach, Florida 33402-3475

H. Adams Weaver, Esquire
Direct Dial: 561-650-0496
Direct Fax: 561-650-0422
E-Mail: aweaver@jones-foster.com

March 4, 2008

VIA EMAIL AND U.S. MAIL

Ed Handy, Right of Way Acquisition Specialist
Palm Beach County
Post Office Box 21229
West Palm Beach, Florida 33416-1229

Re: Palm Beach County v Lassiter
Project No: 2003507A
Project Name: Congress Avenue
Job Limits: South of Lantana Road to Lantana Road
Parcel No: 101 – Partial Fee Taking

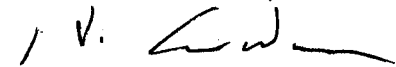
Dear Mr. Handy:

This will confirm that Palm Beach County and my client have agreed to settle the above-referenced matter for \$240,000.00 plus statutory attorney's fees in the amount of \$17,160.00. In addition, Palm Beach County has agreed to provide at least one full median cut adjacent to the Congress Avenue frontage.

If the terms set forth above are correct, please prepare and provide the necessary paperwork to finalize this matter.

Sincerely,

JONES, FOSTER, JOHNSTON & STUBBS, P.A.


H. Adams Weaver

HAW:mtm
cc: Mr. Patrick Koenig

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