

Agenda Item #:

**3-C-19**

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

**Meeting Date: September 9, 2008**

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

**Department:**

**Submitted By:** Engineering and Public Works

**Submitted For:** Right-of-Way Acquisition Section

**I. EXECUTIVE BRIEF**

**Motion and Title: Staff recommends motion to approve:** A Subordination of Utility Interests from BellSouth-AT&T, Florida, doing business as Telecommunications, Incorporated (Utility Company) 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.

**SUMMARY:** Approval of the Subordination of Utility Interests will release the interests of the Utility Company in a parcel of land required for a right turn lane on the Jog Road from Yamato Road to Clint Moore Road project. This Subordination of Utility Interests requires the County to pay for any future relocation costs of the Utility Company facilities when and if requested by the County.

District 4 (PK)

**Background and Justification:** The Utility Company has certain utility interests within a ten foot platted utility easement along the western boundary of the Omni Middle School which is described as Tract Y-4, 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 into the Omni Middle School. The property owner, the School Board of Palm Beach County, has conveyed the right-of-way for the right turn lane to the County. County policy is that land conveyed to the County must be free and clear of all encumbrances. It is therefore required that the Utility Company subordinate their interest in the existing utility easement. The Utility Company has agreed to relocate any facilities they may have from said parcel of land when and if the County should so request. The existing underground facilities are not in conflict with this proposed ultimate construction and are not required to be relocated. The County is agreeable to paying for reasonable relocation costs should future expansion of the roadway be required, though that is not anticipated at this time.

**Attachments:**

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

**Recommended by:** *Ormelis A Fernandez*      7/24/09 *AK*  
Division Director      Date

**Approved by:** *S. T. Webb*      9/17/08  
County Engineer      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: 


**III. REVIEW COMMENTS**

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

 8-15-08  
 OFMB  
 (MD) 8/14/08 SN 8/13/08 VO 8/13

 8/20/08  
 Contract Dev. and Control  
 E. Jones 8/20/08

**B. Approved as to Form and Legal Sufficiency:**

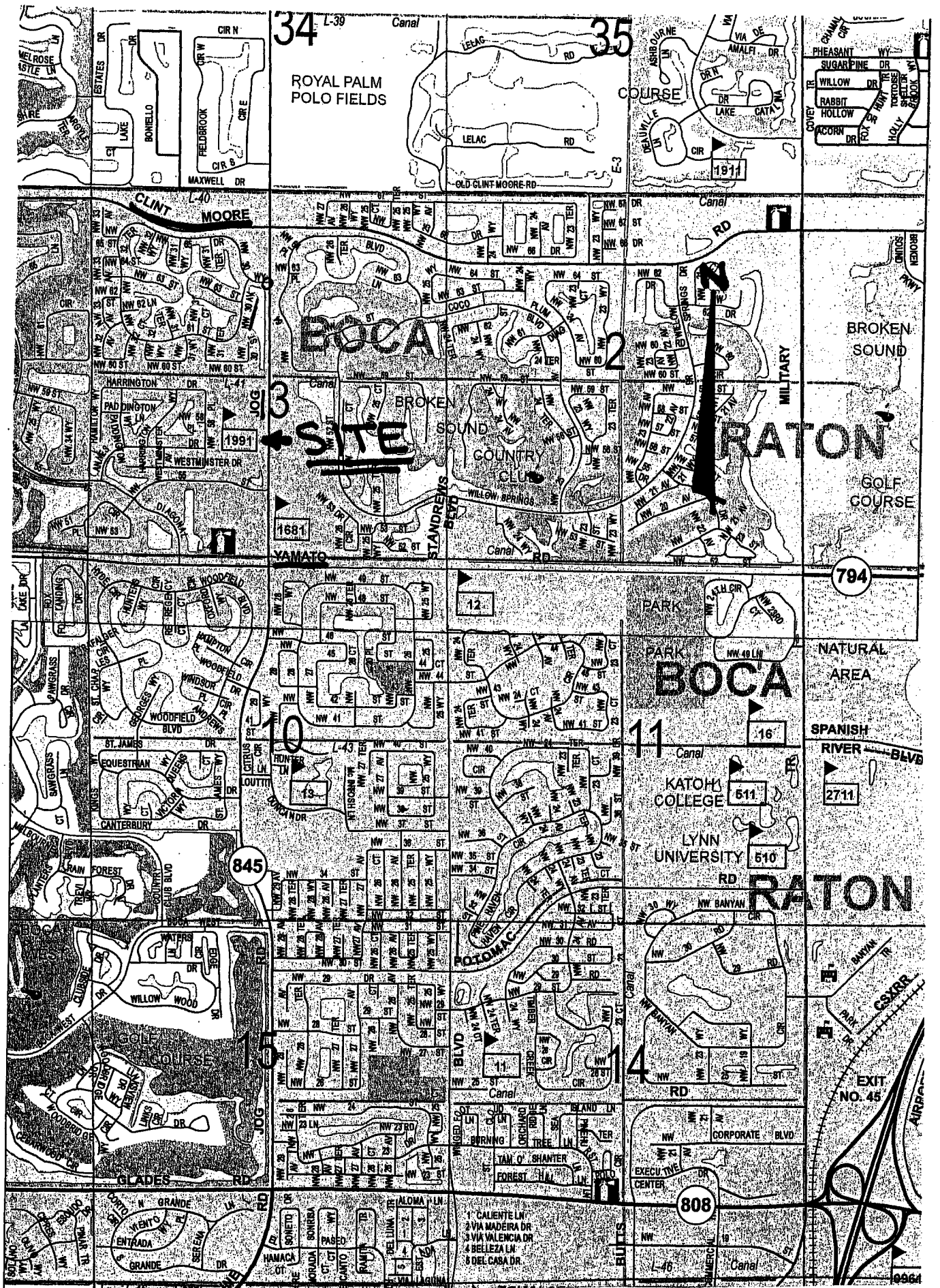
 8/21/08  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

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

LOCATION MAP.



Mark as Attachment 1

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

Not to be recorded without Board of County Commissioners Acceptance Date

Project No.: 2001505B  
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 ~~Bellsouth, AT&T FL~~ whose mailing address is 2021 South Military Trail, West Palm Beach, FL 33415, hereinafter the "utility"). *TELECOMMUNICATIONS INC. D/A/A*

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, Plat Book 67, Pg. 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

6. any, required by the County for location of facilities on the Property.  
This agreement is not assignable except to the State of Florida for the purposes described herein.

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)

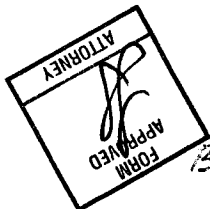
By: \_\_\_\_\_  
Addie L. Greene, Chairperson

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.



George A. Toole Jr.  
Witness Signature

GEORGE A. TOOLE JR.  
Print Name of Witness

George J. Bugenske  
Witness Signature

George J. Bugenske  
Print Name of witness

BELLSOUTH TELECOMMUNICATIONS INC. D/B/A AT&T FLOR  
NAME OF UTILITY

By: \_\_\_\_\_  
Signature

L. E. SHUMPERT  
Print Name

VICE PRESIDENT -  
C&E AT&T SOUTHEAST  
Title

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of October, 2007, by L. E. Shumpert, who is personally known to me, or who supplied \_\_\_\_\_ as identification, and who did/did not take an oath.

SEAL

Sarah G. Mantell  
NOTARY PUBLIC

My Commission Expires: 12/8/2016

**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.

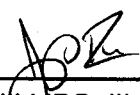
BEARING BASIS: S00°56'52"E ALONG THE EAST BOUNDARY OF THE PLAT OF MIDDLE SCHOOL "GG".

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

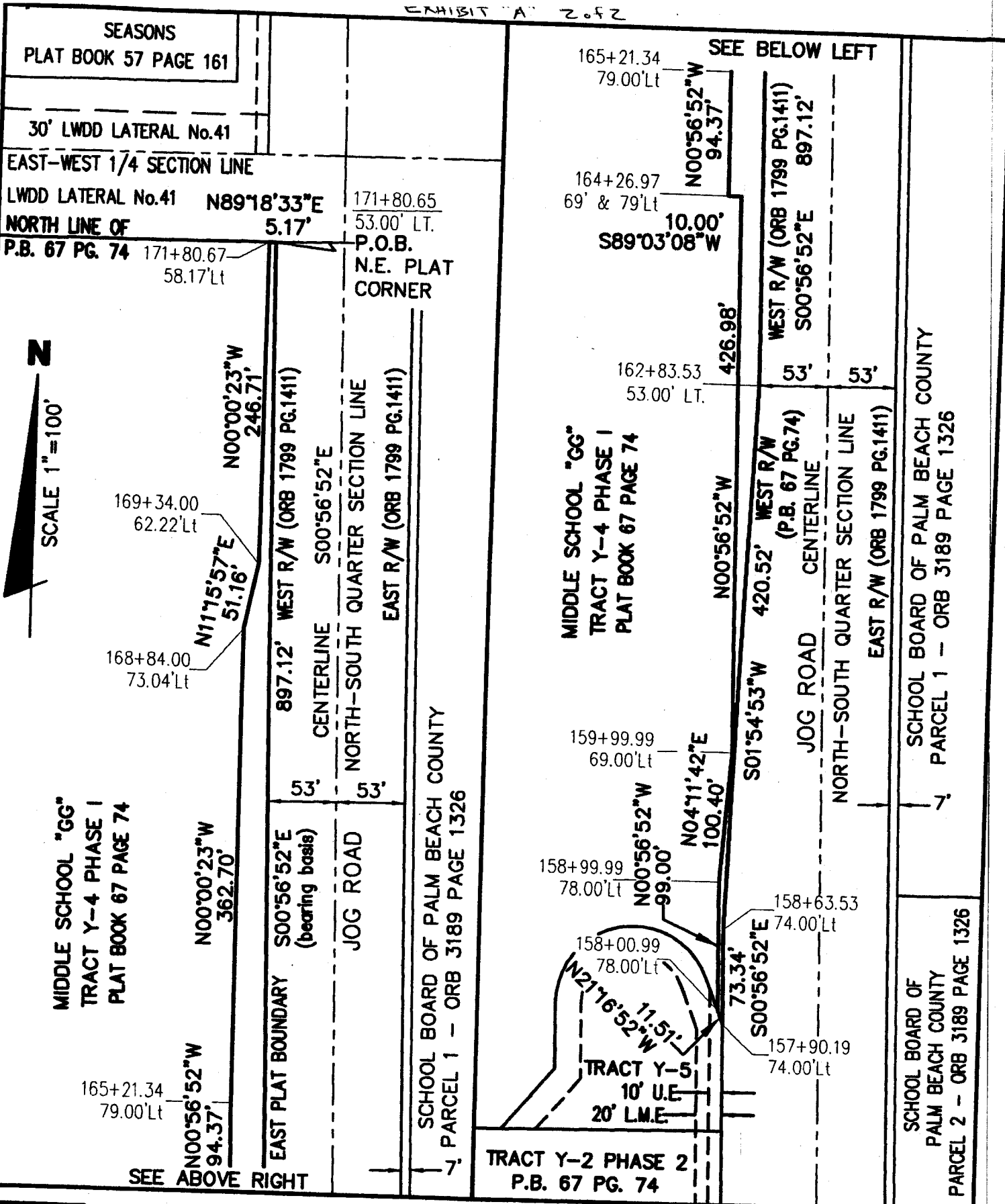
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 JOHN E. PHILLIPS III  
 PROFESSIONAL LAND SURVEYOR  
 STATE OF FLORIDA No. 4826  
 DATE: 7/17/08

**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

LEGAL DESCRIPTION		
DRAWN: MDB	PROJ. No. 01-048	
CHECKED: JEP	SCALE: NONE	
JOG ROAD	DATE: 7/17/08	
Project No. 2001505	SHEET 1 OF 2	

EXHIBIT "A" 2 of 2



**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

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: 7/17/08
Project No. 2001505	SHEET 2 OF 2