

Agenda Item #: **3-C-6**

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

**Meeting Date:** June 8, 2010

☒ **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 Encumbrance to Property Rights from the City of West Palm Beach (City) over a parcel of land, designated as Parcel 101, needed for the 60<sup>th</sup> Street North, from west of Royal Palm Beach Boulevard to the State Road 7 Extension project (Project).

**SUMMARY:** Approval of this subordination will release the interest of the City in a parcel of land owned by Palm Beach County.

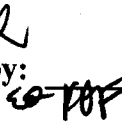
District 6 (PK)

**Background and Justification:** Palm Beach County (County) is the owner of an 80 foot wide parcel of land designated as Parcel 101. This parcel is located immediately south of and adjacent to the M Canal right-of-way from 110<sup>th</sup> Avenue North easterly approximately one mile. The westerly 600.19 feet of Parcel 101 is to be utilized as road right-of-way for construction of the connection of 60<sup>th</sup> Street North to the State Road 7 Extension. In 2009, the County acquired the strip of adjoining 80 foot right-of-way for 60<sup>th</sup> Street North, from west of Royal Palm Beach Boulevard to 110<sup>th</sup> Avenue North. The City had certain interest over this right-of-way, which they subordinated to the County. The City also has certain interest over Parcel 101 and the County has requested that the City subordinate its interest in the westerly 600.19 feet of Parcel 101, which they have done in the Subordination of Encumbrance to Property Rights, (Attachment 2). The approval of this Subordination of Encumbrance to Property Rights is deemed to be in the best interest of the County and the City.

**Attachments:**

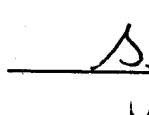
1. Location Map
2. Subordination of Encumbrance to Property Rights with Exhibit "A"

**Recommended by:**

 Division Director

5/14/10  
Date

**Approved by:**

 County Engineer

5/19/10  
Date

## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
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:

X This item has no additional fiscal impact.

C. Departmental Fiscal Review: Shallwhite

## III. REVIEW COMMENTS

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

N. Davis 5/25/10  
OFMB NYC 5-24-10 5/26/10

Dr. J. Jaworski 5/26/10  
Contract Dev. and Control 5/26/10

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

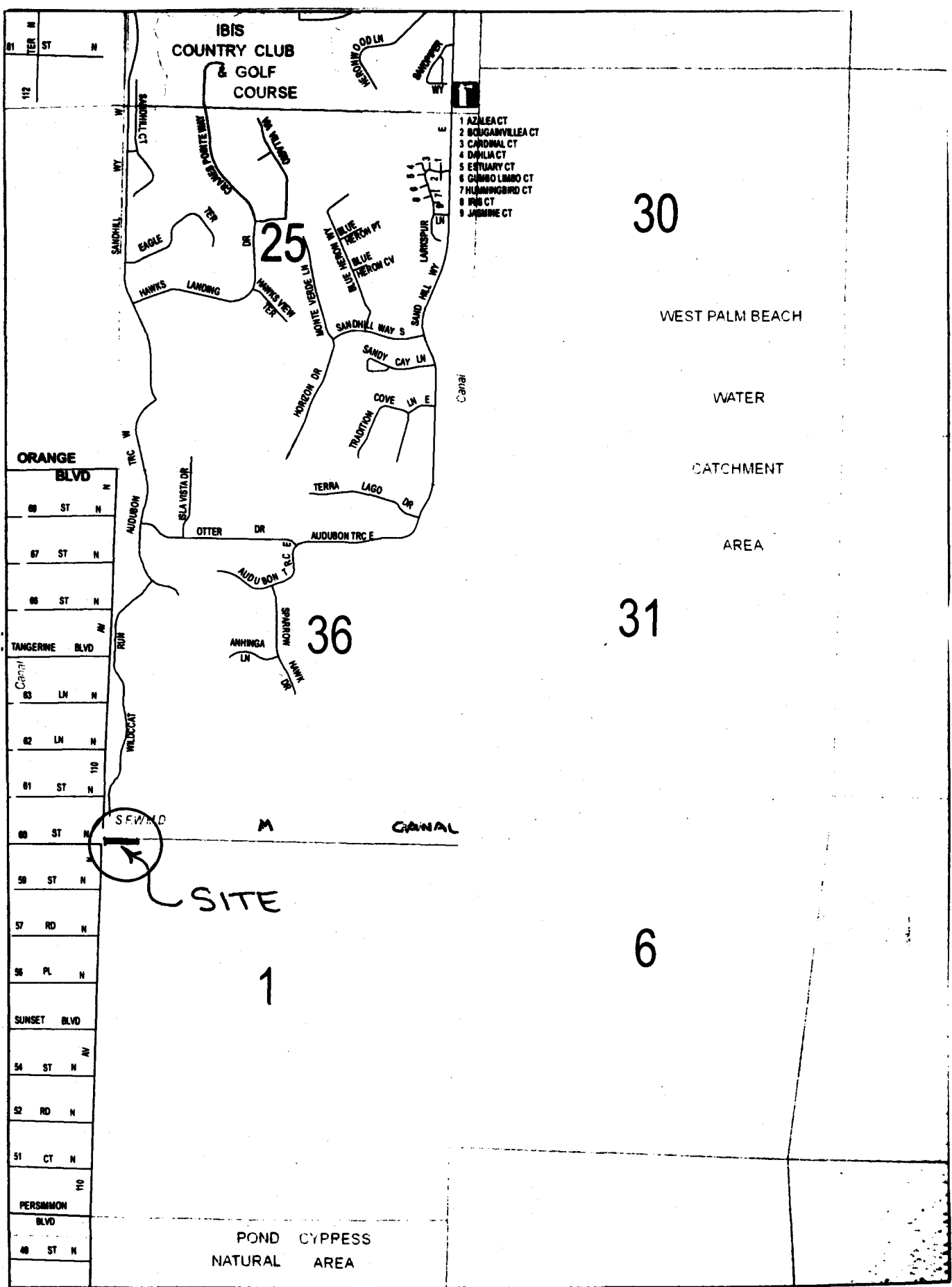
Paul F. 5/27/10  
Assistant County Attorney

### C. Other Department Review:

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

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

LOCATION MAP  
ATTACHMENT #1



Res 124-10

Return: Mr. Ed Handy  
Name: Right-of-Way Acquisition Section  
Palm Beach County Engineering  
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  
Palm Beach County  
Address: Post Office Box 21229  
West Palm Beach, Florida 33416

**NOT TO BE RECORDED  
WITHOUT BOARD OF COUNTY  
COMMISSIONERS ACCEPTANCE DATE**

PCN NO. Government Owned; No PCN

SPACE ABOVE THIS LINE FOR PROCESSING DATA

Project No.: 2004507

Project Name: 60<sup>th</sup> Street North from west  
of Royal Palm Beach Blvd to Acreage  
Access Road

Parcel No.: 101

**SUBORDINATION OF ENCUMBRANCE TO PROPERTY  
RIGHTS OF COUNTY OF PALM BEACH, FLORIDA**

**ENCUMBRANCE IN FAVOR OF:** City of West Palm Beach (City)

**NATURE OF ENCUMBRANCE:** Easement and right of joint user for public water supply, drainage and irrigation purposes over an 80 foot strip of land lying immediately south and adjacent to M-Canal right-of-way.

**DATED:** July 26, 1956

**RECORDED (BOOK/PAGE):** Deed 1156 Pages 58-63

**Whereas,** it is proposed by the County of Palm Beach (County) to undertake roadway improvements adjacent to the M-Canal in accordance with survey and construction plans on file in the Office of the County Engineer; and,

**Whereas,** said road improvement will use land, hereinafter referred to as "Parcel 101", which is subject to an encumbrance held by the City; and,

**Whereas,** the County, has requested that the City subordinate said encumbrance to the property rights of the County to locate, construct, and maintain said improvements over, through, under and/or across Parcel 101, more clearly depicted in attached Exhibit "A", being a portion of the encumbered premises in the County; and,

**Whereas,** the City reserves the right to review construction plans only to verify that adequate access points to the M-Canal are provided; and,

**PROVIDED, ALWAYS, NEVERTHELESS,** and it is expressly understood and agreed that this instrument subordinates said encumbrance insofar as same affects the rights and privileges of the County in its use of the westernmost six hundred feet (600') of Parcel 101 for highway purposes only, and that nothing herein contained shall in any way alter, affect, impair, minimize or diminish the effect of said encumbrance or the remedies at law or in equity for recovering thereunder, or against the parties charged thereby, the full amount of all sums secured by and/or under the same. It is further understood and agreed that in the event said above described premises are abandoned by the County and cease to be

used for highway and maintenance purposes that in such event the subordination of said encumbrance shall terminate in and to such portion abandoned and no longer used as aforesaid, and the encumbrance shall become of the same status with reference to such abandoned portion as if the subordination has never been made.

Project No.: 2004507

Project Name: 60<sup>th</sup> Street North from west  
of Royal Palm Beach Blvd to Acreage  
Access Road

Parcel No.: 101

## SUBORDINATION OF ENCUMBRANCE

Page 2  
(CORPORATION)

IN WITNESS WHEREOF, THE SAID HOLDER OF SAID ENCUMBRANCE HAS DULY EXECUTED  
THIS INSTRUMENT THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010.

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

CITY OF WEST PALM BEACH  
A municipal corporation

By:   
Lois Frankel, Mayor 4/10/10

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

By: \_\_\_\_\_  
Burt Aaronson, Chair

ATTEST:

By:   
City Clerk

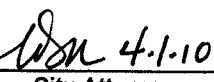
ATTEST:

By: \_\_\_\_\_  
SHARON R. BOCK,  
CLERK & COMPTROLLER

By: \_\_\_\_\_  
(DATE)

By: \_\_\_\_\_  
Deputy Clerk  
(DATE)

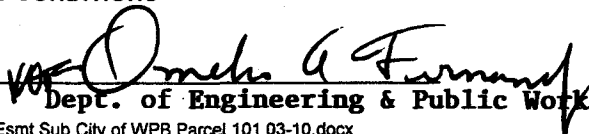
APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

By:  4-1-10  
City Attorney

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

By: \_\_\_\_\_  
ASSISTANT COUNTY ATTORNEY

APPROVED AS TO TERMS  
AND CONDITIONS

By:   
Dept. of Engineering & Public Works

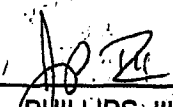
**EXHIBIT "A"**

A PORTION OF THE 80' M-CANAL ROAD, RECORDED IN DEED BOOK 1156,  
PAGE 58 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA,  
BEING:

THE WEST 600.00 FEET OF THE SOUTH 80.00 FEET OF SECTION 36,  
TOWNSHIP 42 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA.

CONTAINING 48,015 SQUARE FEET (1.10 ACRES), MORE OR LESS.

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 HEREON.

  
\_\_\_\_\_  
JOHN E. PHILLIPS III  
PROFESSIONAL LAND SURVEYOR  
STATE OF FLORIDA No. 4826  
DATE: 2/22/10

 **BROWN & PHILLIPS, INC.**

PROFESSIONAL SURVEYING SERVICES

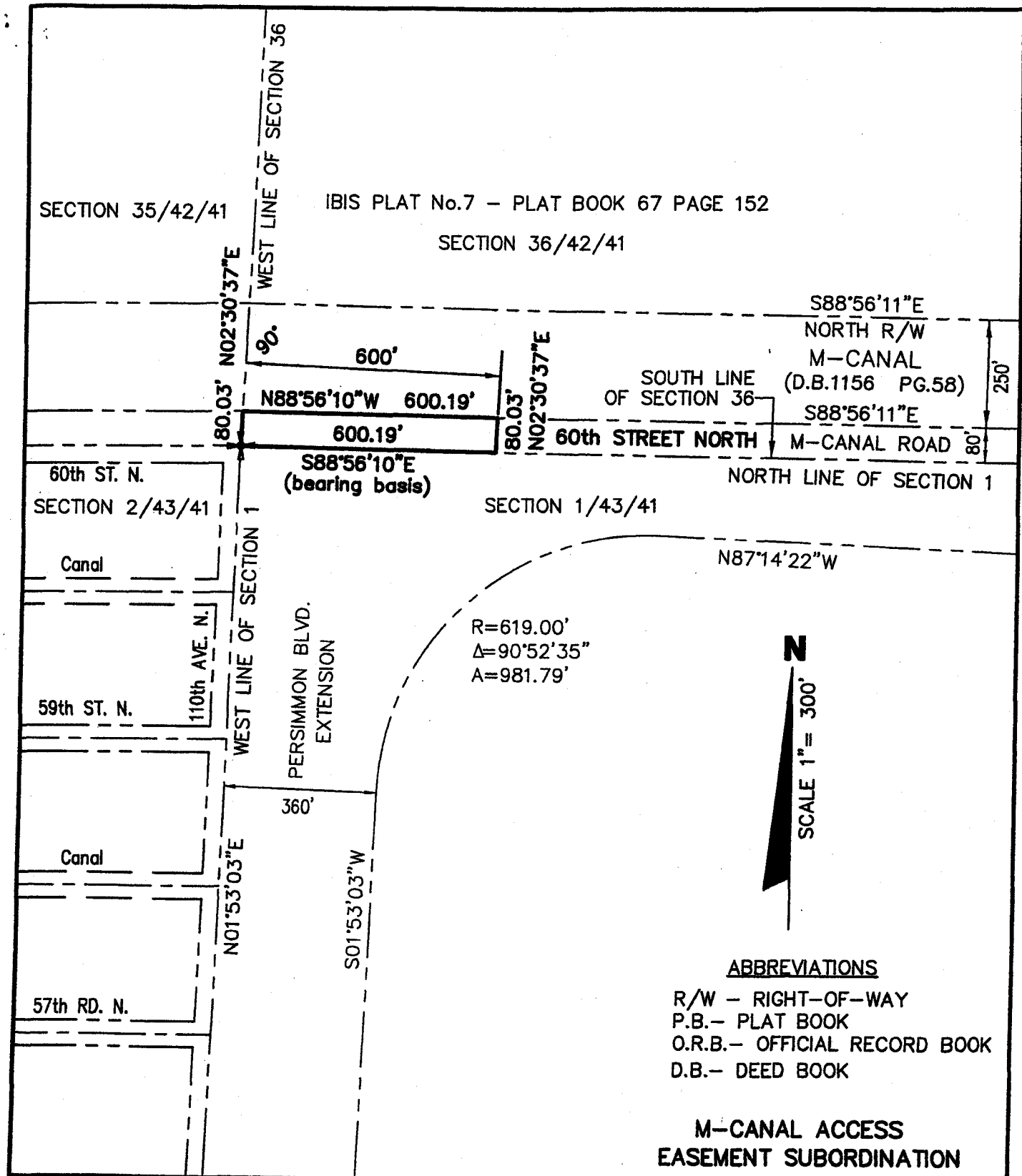
CERTIFICATE OF AUTHORIZATION # LB 6473

901 NORTHPOINT PARKWAY, SUITE 119, W. PALM BEACH, FL 33407

(561) 615-3988. (561) 615-3988 FAX

LEGAL DESCRIPTION  
M-CANAL ACCESS  
EASEMENT SUBORDINATION

DRAWN:	MDB	PROJ. No. 05-056
CHECKED:	JEP	SCALE: NONE
PERSIMMON BLVD.	DATE:	2/18/10



**BROWN & PHILLIPS, INC.**  
PROFESSIONAL SURVEYING SERVICES

CERTIFICATE OF AUTHORIZATION # LB 6473

901 NORTHPOINT PARKWAY, SUITE 119, W. PALM BEACH, FL 33407

**SKETCH TO ACCOMPANY  
LEGAL DESCRIPTION**

**THIS SKETCH IS NOT A SURVEY**

DRAWN: MDB	PROJ. No. 05-056
CHECKED: JEP	SCALE: 1" = 300'
PERSIMMON BLVD.	DATE: 2/18/10