

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: June 5, 2012

☒ 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:

- A) Accept a deed for a right-of-way easement from Congress Park Owners Association, Inc. (Congress Park) on the west side of Congress Avenue, approximately 1,108 feet south of Atlantic Avenue; and
- B) Approve a subordination of utility interests (Subordination Agreement) with Bell South Telecommunications, L.L.C. d/b/a AT & T (Bell South) on said parcel of land.

**SUMMARY:** Acceptance of the deed for the right-of-way easement from Congress Park will provide Palm Beach County with ten and a half feet of area for roadway purposes on the west side of Congress Avenue, approximately 1,108 feet south of Atlantic Avenue. Approval of the Subordination Agreement will release the Bell South utility easement interest on the parcel.

District 4 (MRE)

**Background and Justification:** As part of the permit process for a new right turn lane and driveway connection for the Alta Congress Phase 2 Development, Congress Park is required to dedicate a right-of-way easement on the west of side of Congress Avenue, approximately 1,108 feet south of Atlantic Avenue. The dedicated right-of-way easement is necessary for a pedestrian crosswalk along Congress Avenue. Properties conveyed to Palm Beach County (County) are required to be free and clear of all encumbrances. Therefore, it is necessary for Bell South to subordinate their interest in an existing utility easement which encumbers the right-of-way easement being dedicated. Future relocation is not anticipated however, the Subordination Agreement requires Bell South to relocate any facilities they may have from the dedicated right-of-way easement, when and if requested by the County, and requires the County to pay for reasonable utility relocation costs as necessary. Staff recommends acceptance of the deed for a right-of-way easement, and approval of the Subordination Agreement.

**Attachments:**

- 1. Location Map
- 2. Right-of-Way Easement Deed with Exhibit "A"
- 3. Subordination of Utility Interests and Agreement with Exhibit "A"

Recommended by: Ormelis G. Fernandez 4/26/12 [Signature]  
Division Director Date

Approved by: A. T. Webb 5/2/12 [Signature]  
County Engineer Date

## II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2012	2013	2014	2015	2016
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

### 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: Alice Kovalainen

## III. REVIEW COMMENTS

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

N. Diaz 5/16/12  
OFMB  
5/12/12 5/31/12 5/31/12  
cc [signature] 5/31/12

A. J. Jacob 5/11/12  
Contract Dev. and Control  
5-11-12 [signature]

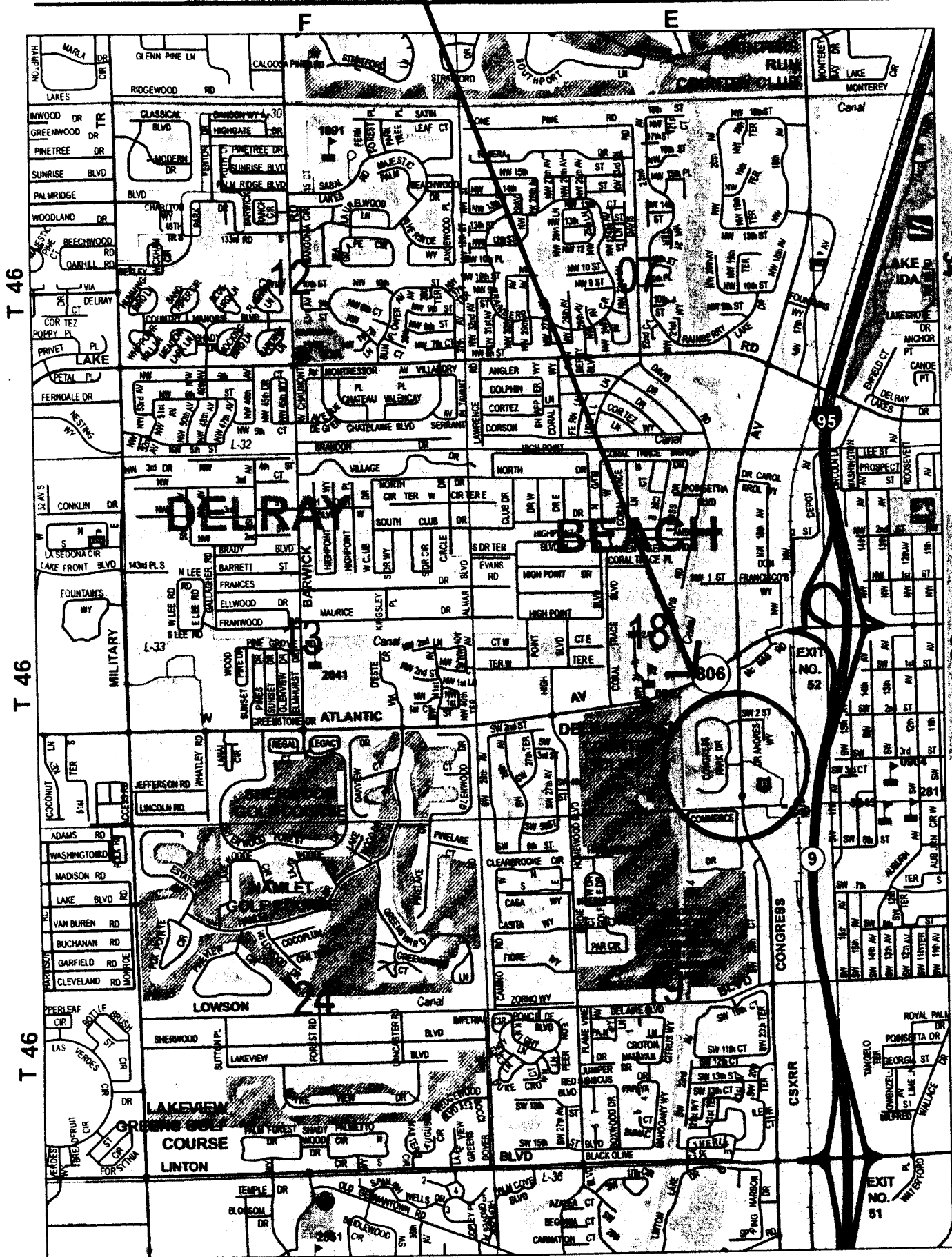
### B. Approved as to Form and Legal Sufficiency:

Monique Platts 5/22/12  
(Assistant County Attorney)

### C. Other Department Review:

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

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



Return to:  
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: Marlene Everitt, 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

SPACE ABOVE THIS LINE FOR PROCESSING DATA

PCN:  
(Corporation)

PROJECT NO. RW21599-1208  
ROAD NAME:  
Limits: Congress Av  
PARCEL NO.: 12 43 46 18 55 007 0000

RIGHT-OF-WAY EASEMENT

THIS EASEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 2012, between CONGRESS PARK OWNERS ASSOCIATION, INC., a Florida not-for-profit corporation, whose mailing address is 120 S. University Drive, Suite B, Plantation, FL 33324, as the party of the first part, and PALM BEACH COUNTY, a political subdivision of the State of Florida, as the party of the second part, whose address is P.O. Box 21229, West Palm Beach, Florida 33416.  
WITNESSETH: That the party of the first part, for and in consideration of the sum of ONE (\$1.00) dollar and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants unto the party of the second part, its successors and assigns, for the purpose of a Permanent Right-of-Way Easement over, upon, under, through and across the following described land, situate in Palm Beach County, Florida, to-wit:

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

The party of the second part shall have the right, but not the obligation, to remove and use any or all of the soil and/or subsoil, in accordance with current and future construction plans, within the easement area.

TO HAVE AND TO HOLD THE SAME unto the party of the second part, its successors and assigns forever.

IN WITNESS WHEREOF, the said party has hereto set its hand(s) and seal(s) the day and year first above written.

(CORPORATE SEAL)

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

[Signature]  
WITNESS Signature (Required)

[Signature]  
TYPED OR PRINTED NAME OF WITNESS

CONGRESS PARK OWNERS ASSOCIATION, INC.,  
a Florida not-for-profit corporation

BY:

[Signature]  
SIGNATURE OF PRESIDENT  
Marvin Feinstein  
TYPED OR PRINTED NAME OF PRESIDENT

[Signature]  
WITNESS SIGNATURE (Required)

MARIE G. DINI  
TYPED OR PRINTED NAME OF WITNESS

120 S. University Drive, Suite B  
Plantation, FL 33324  
MAILING ADDRESS

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 2 day of March, 2012, by Marvin Feinstein, as President of Congress Park Owners Association, Inc., a Florida not-for-profit corporation, on behalf of the corporation. He is personally known to me or has produced a Florida driver's license as identification.

witness my hand and official seal this 2 day of MARCH, 2012.

Signed: [Signature]  
Notary Public in and for  
the County and State aforementioned



## THIS IS NOT A BOUNDARY SURVEY

EXHIBIT "A"

PAGE 1 OF 2

## LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN TRACT "G", CONGRESS PARK REPLAT AS RECORDED IN PLAT BOOK 86, PAGES 29 AND 30, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER SAID CONGRESS PARK REPLAT; THENCE NORTH 00°00'00" EAST ALONG THE EAST LINE OF SAID CONGRESS PARK, SAID LINE BEING THE WEST RIGHT OF WAY LINE OF CONGRESS AVENUE AS SHOWN ON THE PLAT OF CONGRESS PARK AS RECORDED IN PLAT BOOK 44, PAGES 194 AND 195 OF SAID PUBLIC RECORDS, A DISTANCE OF 86.06 FEET TO THE POINT OF BEGINNING; THENCE NORTH 09°21'32" WEST, A DISTANCE OF 89.24 FEET; THENCE NORTH 12°35'32" EAST, A DISTANCE OF 18.40 FEET; THENCE NORTH 90°00'00" EAST, A DISTANCE OF 10.50 FEET TO A POINT ON SAID EAST LINE OF TRACT "G" AND THE WEST RIGHT OF WAY LINE OF CONGRESS AVENUE; THENCE SOUTH 00°00'00" EAST ALONG THE AFORE DESCRIBED LINE A DISTANCE OF 106.02 FEET TO THE POINT OF BEGINNING.

CONTAINING 864 SQUARE FEET ( 0.02 ACRES ) MORE OR LESS.

## SURVEYOR'S NOTES:

- 1.) NO SEARCH OF THE PUBLIC RECORDS WAS MADE BY THIS OFFICE.
- 2.) BEARINGS AS SHOWN HEREON ARE BASED UPON THE EAST LINE OF CONGRESS PARK REPLAT AS RECORDED IN PLAT BOOK 86, PAGES 29 - 30, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, HAVING A PLATTED BEARING OF SOUTH 00°00'00" EAST,

## COORDINATE NOTE:

STATE PLANE COORDINATES SHOWN ARE GRID DATUM, NAD 83 1990  
ADJUSTMENT, FLORIDA EAST ZONE, COORDINATE SYSTEM 1983 STATE  
PLANE, TRANSVERSE MERCATOR PROJECTION  
LINEAR UNIT = US SURVEY FEET  
ALL DISTANCES ARE GROUND  
SCALE FACTOR = 1.0000416  
GROUND DISTANCE X SCALE FACTOR = GRID DISTANCE

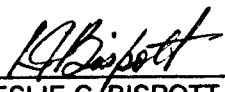
N 45°00'00"W (PLAT BEARING) -00°52'33" COUNTERCLOCKWISE ROTATION

N 45°52'53"W (GRID BEARING) PLAT TO GRID

— THE SOUTHERLY LINE TRACT "A-2", CONGRESS PARK REPLAT

UNLESS THIS DOCUMENT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER, THIS DRAWING, MAP, SKETCH OR PLAT IS FOR INFORMATION PURPOSES ONLY AND IS NOT VALID.

DATE: 3/16/2012

  
LESLIE C. BISPOTT  
PROFESSIONAL SURVEYOR AND MAPPER  
FLORIDA CERTIFICATE NUMBER 5698

**MICHAEL B. SCHORAH  
& ASSOCIATES, INC.**

1850 FOREST HILL BLVD., SUITE 206  
WEST PALM BEACH, FLORIDA 33406

EB# 2438 TEL. (561) 968-0080 FAX. (561) 642-0726 LB# 2438

FIELD: N/A	DRAWN: L.C.B.	SCALE: 1"=50'
BOOK: N/A	DATE: FEB., 2012	PROJ. FILE ALTA CONGRESS
PAGE: N/A	CHECKED: J.T.G.	CADD FILE 1490_ADD_RW

**SKETCH AND DESCRIPTION  
OF EASEMENT  
AT CONGRESS PARK ENTRY**

SHEET NO. 1 OF 2

JOB NO. 1490

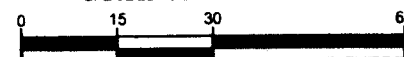
### LEGEND

7.0' RIGHT-OF-WAY —  
(P.B. 44, PAGE 194-195)

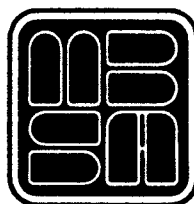
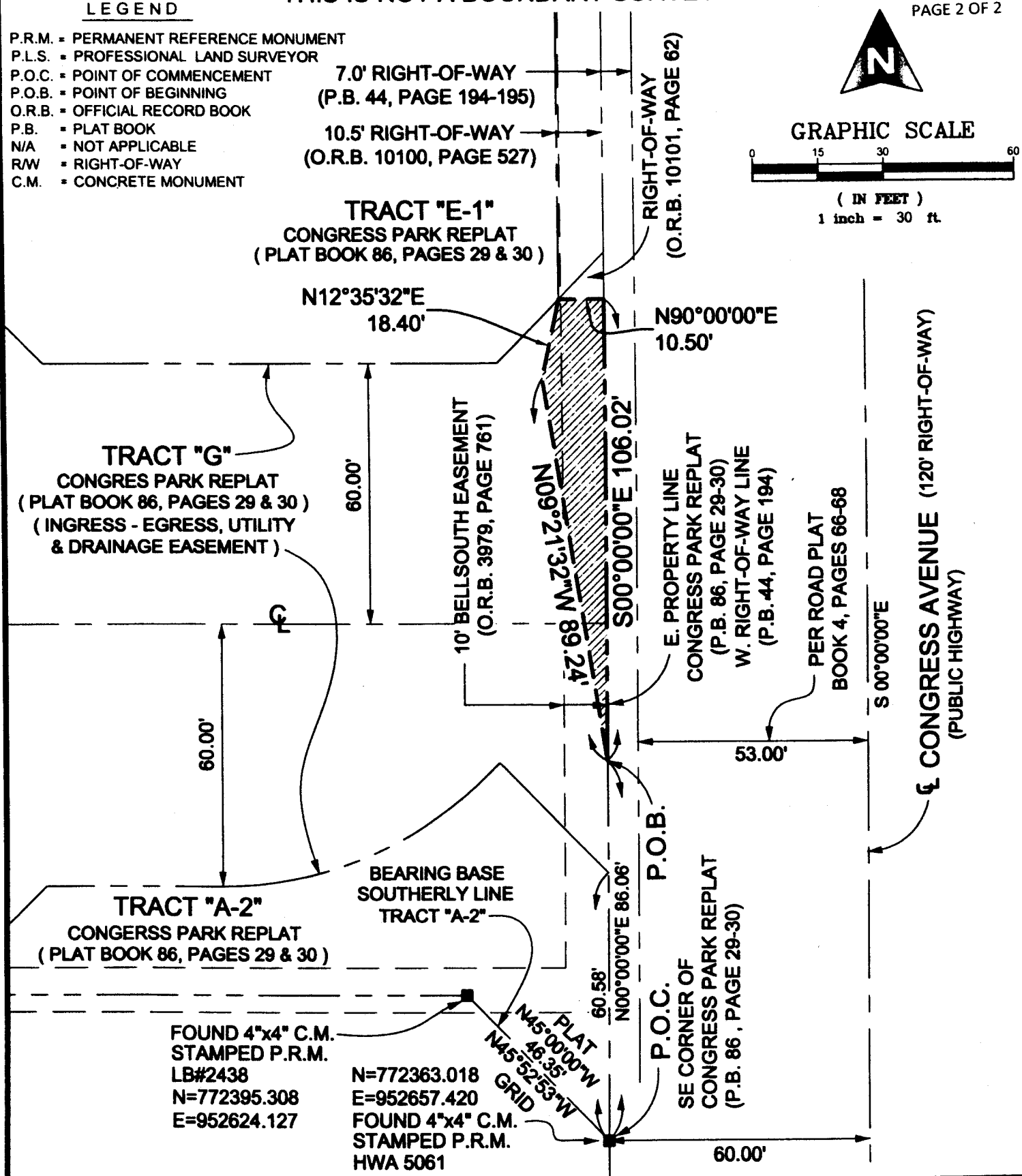
10.5' RIGHT-OF-WAY —  
(O.R.B. 10100, PAGE 527)



### GRAPHIC SCALE



( IN FEET )  
1 inch = 30 ft.



**MICHAEL B. SCHORAH  
& ASSOCIATES, INC.**

**1850 FOREST HILL BLVD., SUITE 206  
WEST PALM BEACH, FLORIDA 33406**

FB# 2438 TEL. (561) 968-0080 FAX. (561) 642-9726 LB# 2438

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BOOK: N/A	DATE: FEB., 2012	PROJ. FILE ALTA CONGRES
PAGE: N/A	CHECKED: J.T.G.	CADD FILE 1490_ADD_RW

## SKETCH AND DESCRIPTION OF EASEMENT AT CONGRESS PARK ENTRY

**SHEET NO. 2 OF 2**

**JOB NO. 1490**

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

This Instrument Prepared By:  
Name: Marlene R. Everitt, Esq.  
Assistant County Attorney  
Post Office Box 21229  
West Palm Beach, Florida 33416

P.I.N.: Not to be recorded without Board of County Commissioners Acceptance Date

Project No.: RW21599-1208

Project Name: Congress Av

Parcel No.: 12 43 46 18 55 007 0000

SUBORDINATION OF UTILITY INTERESTS  
TO PALM BEACH COUNTY, FLORIDA

THIS AGREEMENT, entered into this 28 day of February, 2012, by and between the COUNTY OF PALM BEACH (hereinafter the "County"), and BellSouth Telecommunications, LLC d/b/a AT&T Florida whose mailing address is 321 SE 2nd Avenue, Delray Beach, Florida 33483, 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;

<u>NATURE OF ENCUMBRANCE</u>	<u>DATE</u>	<u>FROM OR AGAINST</u>	<u>IN FAVOR OF</u>	<u>BOOK AND PAGE</u>
Right-of-Way Easement	June 30, 1980	B.S.C. Construction Corp	BellSouth Tel.	ORB 3979 Pg 761

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.  
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: \_\_\_\_\_  
**Shelley Vana,** Chair

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  
2012, by  
Chairman, Board of County Commissioners, who is personally known to me and who did not  
take an oath.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

BellSouth Telecommunications LLC,  
d/b/a AT&T Florida  
NAME OF UTILITY

*[Signature]*  
Witness Signature

**ROBERT KRAUSS**  
Print Name of witness

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

*Philip Vecchio*  
Print Name

*ENG AREA MANAGER*  
Title

*Sandi Archambeau*  
Witness Signature

*Sandi Archambeau*  
Print Name of witness

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 28 day of  
February 2012, by Phil Vecchio, who is personally  
known to me, or who supplied drivers license as identification, and  
who did not take an oath.

SEAL

266-LGL REV. 11/19/07

*Eva Lewis*  
NOTARY PUBLIC





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EXHIBIT "A"

PAGE 1 OF 2

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PLANE, TRANSVERSE MERCATOR PROJECTION  
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ALL DISTANCES ARE GROUND  
SCALE FACTOR = 1.0000416  
GROUND DISTANCE X SCALE FACTOR = GRID DISTANCE

N 45°00'00"W (PLAT BEARING) -00°52'33" COUNTERCLOCKWISE ROTATION

N 45°52'53"W (GRID BEARING) PLAT TO GRID

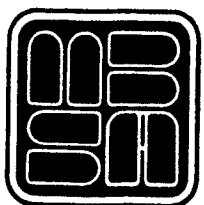
THE SOUTHERLY LINE TRACT "A-2", CONGRESS PARK REPLAT

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DATE: 3/16/2012



LESLIE C. BISPOTT  
PROFESSIONAL SURVEYOR AND MAPPER  
FLORIDA CERTIFICATE NUMBER 5698

**MICHAEL B. SCHORAH  
& ASSOCIATES, INC.**

1850 FOREST HILL BLVD., SUITE 208  
WEST PALM BEACH, FLORIDA 33408

EB# 2438 TEL. (561) 988-0080 FAX. (561) 842-9726 LB# 2438

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OF EASEMENT  
AT CONGRESS PARK ENTRY**

SHEET NO. 1 OF 2

JOB NO. 1490

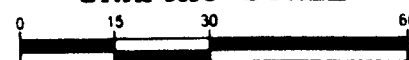
## LEGEND

P.R.M. • PERMANENT REFERENCE MONUMENT  
 P.L.S. • PROFESSIONAL LAND SURVEYOR  
 P.O.C. • POINT OF COMMENCEMENT  
 P.O.B. • POINT OF BEGINNING  
 O.R.B. • OFFICIAL RECORD BOOK  
 P.B. • PLAT BOOK  
 N/A • NOT APPLICABLE  
 R/W • RIGHT-OF-WAY  
 C.M. • CONCRETE MONUMENT

THIS IS NOT A BOUNDARY SURVEY



GRAPHIC SCALE



( IN FEET )

1 inch = 30 ft.

TRACT "E-1"  
 CONGRESS PARK REPLAT  
 ( PLAT BOOK 86, PAGES 29 & 30 )

N12°35'32"E  
 18.40'

RIGHT-OF-WAY  
 (O.R.B. 10101, PAGE 62)

N90°00'00"E  
 10.50'

TRACT "G"  
 CONGRES PARK REPLAT  
 ( PLAT BOOK 86, PAGES 29 & 30 )  
 ( INGRESS - EGRESS, UTILITY  
 & DRAINAGE EASEMENT )

60.00'

10' BELLSOUTH EASEMENT  
 (O.R.B. 3979, PAGE 761)

N09°21'32"W 89.24'

S00°00'00"E 106.02'

E. PROPERTY LINE  
 CONGRESS PARK REPLAT  
 (P.B. 86, PAGE 29-30)  
 W. RIGHT-OF-WAY LINE  
 (P.B. 44, PAGE 194)

PER ROAD PLAT  
 BOOK 4, PAGES 66-68

60.00'

53.00'

S 00°00'00"E

CONGRESS AVENUE (120' RIGHT-OF-WAY)  
 (PUBLIC HIGHWAY)

TRACT "A-2"

CONGRSS PARK REPLAT  
 ( PLAT BOOK 86, PAGES 29 & 30 )

BEARING BASE  
 SOUTHERLY LINE  
 TRACT "A-2"

FOUND 4"x4" C.M.  
 STAMPED P.R.M.  
 LB#2438  
 N=772395.308  
 E=952624.127

N=772363.018  
 E=952657.420  
 FOUND 4"x4" C.M.  
 STAMPED P.R.M.  
 HWA 5061

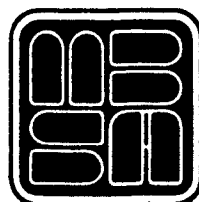
N45°00'00"W  
 N45°52'53"W  
 GRID

P.O.B.

P.O.C.

SE CORNER OF  
 CONGRESS PARK REPLAT  
 (P.B. 86, PAGE 29-30)

60.00'



**MICHAEL B. SCHORAH  
 & ASSOCIATES, INC.**

1850 FOREST HILL BLVD., SUITE 208  
 WEST PALM BEACH, FLORIDA 33408

EB# 2438 TEL. (561) 968-0080 FAX. (561) 642-9726 LB# 2438

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PAGE: N/A	CHECKED: J.T.G.	

**SKETCH AND DESCRIPTION  
 OF EASEMENT  
 AT CONGRESS PARK ENTRY**

SHEET NO. 2 OF 2

JOB NO. 1490