RESOLUTION NO. 2007- 3/2

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS OF A PARTIAL RELEASE OF EASEMENT IN THE ASHLEY OAKS SUBDIVISION AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE SAID RELEASE.

WHEREAS, the County was granted a certain Temporary Access Easement dated June 25th, 2001 ("Easement"), attached hereto as Exhibit "A", incorporated by reference and made a part hereof, to provide access to a telecommunication site, and;

WHEREAS, Oxford partners, LLC ("Oxford"), the owner of the subservient estate of the Easement, will provide superior access to the telecommunications site by the dedication of public roads to the County upon approval of that certain plat of Ashley Oaks, and;

WHEREAS, Oxford has requested that the County release the portion of the Easement which is no longer needed, per the terms of a Partial Release of Easement, attached hereto as Exhibit "B", incorporated by reference and made a part hereof.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. The above recitals are incorporated into the body of this Resolution and such recitals are adopted as findings of fact.

Section 2. The Board of County Commissioners accepts the terms of the Partial Release of Easement and authorizes the County Administrator to execute said agreement.

Section 3. The Clerk of Courts is instructed to record the original Partial Release of Easement in the Public Records of St. Johns County, Florida.
PASSED AND ADOPTED this 30th day of October, 2007.

BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA.

By: ___________________________

Ben Rich, Chairman

Attest: Cheryl Strickland, Clerk

By: ___________________________

Deputy Clerk

RENDITION DATE 11/2/07
Exhibit "A" to Resolution

PUBLIC RECORDS
St. Johns County, FL
Clerk# 01-041906
O.R. 1639 PG 345
02:58PM 08/14/2001
REC $25.00 SUR $3.50

TEMPORARY ACCESS EASEMENT

This Temporary Access Easement is made this 6th day of June, 2001, by LYNDA I. KIRKER, STEVEN E. KIRKER AND KEITH W. KIRKER, with an address of 6995B State Road 16, St. Augustine, Florida 32082, their successors and assigns, hereinafter referred to as "Grantor", to St. Johns County, a political subdivision of the State of Florida, P.O. Drawer 349, St. Augustine, Florida 32085-0349, hereinafter referred to as "Grantee", their licensees, agents, successors and assigns, a non-exclusive right of way access easement for the purpose of ingress and egress by Grantee, Grantee's agents or assigns, at any and all time, to and from Powertel/Jacksonville, Inc.'s Leased Premises which are more particularly described herein in Exhibit "A" attached hereto and made a part hereof.

WITNESSETH:

WHEREAS, Grantor, as Lessor, has entered into a Ground Lease referred to hereinafter as "Lease", dated March 24, 2000, with Powertel/Jacksonville, Inc., 1233 O.G. Skinner Drive, West Point, Georgia 31833, as "Lessee", for a portion of the Lessor's land, referred to as the "Premises", and

WHEREAS, the Lease contemplates the construction of a telecommunications facility on the Leased Premises; and

WHEREAS, Section 6.08.12 of the St. Johns County Land Development Code (the "Zoning Ordinance") requires the dismantling and removal of telecommunications facilities after abandonment; and

WHEREAS, Section 6.08.12 (S) of the Zoning Ordinance requires a thirty foot (30') easement for access to the Leased Premises for removal of an abandoned communications facility not complying with Section 6.08.12 (N) (time periods for removal of an abandoned telecommunications facility); and

NOW, THEREFORE, Grantor, for and in consideration of the sum of Ten and No/100 Dollars ($10.00) and other good and valuable consideration to them in hand paid by Grantee, the receipt and sufficiency of which is hereby acknowledged, hereby grants to the Grantee, its successors and assigns, a non-exclusive easement over the lands of Grantor more particularly described on Exhibit "B" attached hereto (the "Easement Area") for ingress and egress to the Leased Premises only for the purpose of removing the Lessee's telecommunications facilities if said telecommunications facilities are in violation of Section 6.08.12 (N) of the Zoning Ordinance, with the right, privilege, and authority of Grantee, its
successors and assigns, to enter on to the Leased Premises and to remove the telecommunications facilities therefrom in accordance with and subject to the requirements of Section 6.08.12 (N) of the Zoning Ordinance.

The Grantor warrants to Grantee that it has good and indefeasible fee simple title to the Easement Area and the authority to enter into this Easement.

This Easement shall terminate automatically upon removal of the Lessee's telecommunications facilities from the Leased Premises, whether removed by the Lessee, Grantor or Grantee. At the request of the Grantor, Grantee shall execute a recordable document evidencing such termination. If Grantee shall fail to execute such a document within thirty (30) days of Grantor's request, Grantor may record an affidavit certifying that the telecommunications facilities have been removed and that this Easement has terminated.

Grantor reserves the right at its expense to relocate the Easement Area at any time and from time to time to permit convenient use of Grantor's property, provided that the relocated easement shall provide to Grantee substantially the same ingress and egress rights herein granted. Any such relocated easement shall be evidenced by an amendment to the Easement executed by Grantor and Grantee herein.

IN WITNESS WHEREOF, the undersigned have signed and sealed this instrument this [date] day of June, 2001.

GRANTORS

LYNDIA I. KIRKER

Witness

Print Name: Richard Shirk Sr.

Witness

Print Name: Val Kozia

STATE OF FLORIDA

COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this [date] day of June, 2001, by LYNDIA I. KIRKER, who is personally known to me or who has produced [identification]

My Commission Expires: Sep 20, 2003

NOTARY PUBLIC
STEVEN E. KIRKER
Witness: 
Print Name: Richard Smith Jr.

Copy

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 15th day of JUNE, 2001, by STEVEN E. KIRKER, who is personally known to me or who has produced ________________________, as identification.

My Commission Expires: SEP. 20, 2003
Print Name: Richard Smith Jr.

KEITH W. KIRKER
Witness: 
Print Name: Richard Smith Jr.

Copy

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 25th day of JUNE, 2001, by KEITH W. KIRKER, who is personally known to me or who has produced ________________________, as identification.

My Commission Expires: SEP. 20, 2003
Print Name: Richard Smith Jr.
GRANTEE

ST. JOHNS COUNTY, FLORIDA
a political subdivision of the State of Florida

By: Marc Jacobone
Print Name: Marc Jacobone
Title: Chairman

Executed this 15th day of August, 2001.

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 15th day of August, 2001, by Marc Jacobone, as Chairman, in and for the County of St. Johns, Florida, a subdivision of the State of Florida, on behalf of the County who is personally known to me or who has produced as identification.

My Commission Expires: Patricia De Grande
Print Name: Patricia De Grande
NOTARY PUBLIC

COPY

COPY

COPY

COPY
Exhibit "A"

LEASE PARCEL

A PART OF SECTION 24, TOWNSHIP 6 SOUTH, RANGE 27 EAST, ST. JOHN'S COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHWEST CORNER OF THE LANDS DESCRIBED AND RECORDED IN OFFICIAL RECORDS BOOK 1372, PAGE 976, OF THE PUBLIC RECORDS OF ST. JOHN'S COUNTY, FLORIDA, SAID CORNER ALSO BEING SITUATE ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 16 (ALSO KNOWN AS BOOTH ROAD), A 68 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED; THENCE SOUTH 43 DEGREES 25 MINUTES 15 SECONDS WEST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, 1588.15 FEET TO A POINT SITUATE ON SAID SOUTHERLY RIGHT-OF-WAY LINE 30 MINUTES 58 SECONDS WEST, 12.01 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 43 DEGREES 25 MINUTES 15 SECONDS WEST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, 1504.2 FEET TO THE POINT OF BEGINNING; CONTAINING 4000.0 SQUARE FEET MORE OR LESS.

Exhibit "B"

ACCESS & UTILITY EASEMENT

A PART OF SECTION 24, TOWNSHIP 6 SOUTH, RANGE 27 EAST, ST. JOHN'S COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHWEST CORNER OF THE LANDS DESCRIBED AND RECORDED IN OFFICIAL RECORDS BOOK 1372, PAGE 976, OF THE PUBLIC RECORDS OF ST. JOHN'S COUNTY, FLORIDA, SAID CORNER ALSO BEING SITUATE ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 16 (ALSO KNOWN AS BOOTH ROAD), A 68 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED; THENCE SOUTH 43 DEGREES 25 MINUTES 15 SECONDS WEST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, 1588.15 FEET TO A POINT SITUATE ON SAID SOUTHERLY RIGHT-OF-WAY LINE, 30 MINUTES 58 SECONDS WEST, 12.01 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 43 DEGREES 25 MINUTES 15 SECONDS WEST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, 1504.2 FEET TO THE POINT OF BEGINNING; CONTAINING 4000.0 SQUARE FEET MORE OR LESS.

COPY
PARTIAL RELEASE OF EASEMENT

THIS PARTIAL RELEASE OF EASEMENT is made this _____ day of __________, 2007, by ST. JOHNS COUNTY, FLORIDA, a political subdivision of the State of Florida (the “County”).

WITNESSETH

WHEREAS, the County was granted that certain Temporary Access Easement dated June 25, 2001, and recorded in Official Records Book 1639, page 345 of the public records of St. Johns County, Florida (“Easement”) for a temporary access easement to a telecommunication site over and across the property described therein; and

WHEREAS, Oxford Partners, LLC (“Oxford”), the owner of the servient estate of the Easement, has provided superior access to the telecommunications site by the dedication of public roads to the County by way of that certain Plat of Ashley Oaks recorded in Map Book ____, page ____ of the public records of St. Johns County, Florida; and

WHEREAS, Oxford has requested that the County release the portion of the Easement which is no longer needed, and the County is willing to release, pursuant to the terms hereof, that portion of the Easement described on Exhibit “A” attached hereto.

NOW, THEREFORE, the County, for and in consideration of the sum of Ten and No/100 Dollars ($10.00) and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, does hereby forever release, abandon, remise, relinquish and terminate the Easement with respect to, and only with respect to, the property described on Exhibit “A” attached hereto. This Partial Release of Easement only releases the Easement with respect to the property described on Exhibit “A” attached hereto and shall not be construed as the abandonment of any other portion of the Easement which, except as herein modified and amended, shall remain in full force and effect.
IN WITNESS WHEREOF, the County has caused these presents to be executed the day and year first above written.

Signed, sealed and delivered in the presence of:

Print: ____________________________

Print: ____________________________

ST. JOHNS COUNTY

By: ________________________________

Print Name: __________________________

Its: ________________________________

ATTEST: Cheryl Strickland, Clerk

By: ________________________________

Print: ____________________________

Deputy Clerk

STATE OF FLORIDA   }
COUNTY OF ST. JOHNS  } SS

The foregoing instrument was acknowledged before me this ___ day of ____, 2003, by __________________, the ________________ of ST. JOHNS COUNTY, FLORIDA, a political subdivision of the State of Florida, on behalf of St. Johns County, Florida.

______________________________
(Print Name)

NOTARY PUBLIC
State of Florida at Large
Commission # ________________________
My Commission Expires:
Personally Known _____
or Produced I.D. _______
[check one of the above]
Type of Identification Produced ________________________

(00157561.DOC.)
MAP SHOWING BOUNDARY SURVEY OF

A portion of Florida Power and Light Company Easement recorded in O.R. Book 1639, Page 1118 (to be closed)

A part of Section 24, Township 6 South, Range 27 East, St. Johns County, Florida, and being more particularly described as follows:

COMMENCE at the Northeast corner of the lands described and recorded in Official Records Book 1372, Page 979, of the Public Records of St. Johns County, Florida, said corner also being situate on the Southerly right of way line of State Road No. 16 (also known as Booth Road, a 66 foot right of way as now established);
thence South 63°25'15" West, along said Southerly right of way line, 1580.90 feet to a point situate on said Southerly right of way line, said point also being the POINT OF BEGINNING; thence South 08°56'18" East, 80.71 feet; thence South 28°08'06" West, 44.65 feet; thence South 01°49'32" East, 230.07 feet; thence South 10°32'40" East, 245.22 feet; thence North 89°32'54" East, 83.06 feet to the proposed Easterly right of way line of Irish Rose Road as shown on the proposed plat of Ashley Oaks; thence South 00°54'45" East, along said Easterly right of way line, 35.00 feet; thence South 89°32'54" West, 235.31 feet to a concrete monument, said monument being the Southeast corner of The Southwest 1/4 of the Northwest 1/4 of the Northeast 1/4 of said Section 24; thence North 00°54'30" West, along the East line of the Southwest 1/4 of the Northwest 1/4 of the Northeast 1/4 of said Section 24, a distance of 254.32 feet; thence North 89°05'30" East, 20.00 feet; thence South 00°54'30" East, parallel with the East line of the Southwest 1/4 of the Northwest 1/4 of said Section 24, a distance of 234.48 feet; thence North 89°32'54" East, 104.03 feet; thence North 10°32'40" West, 257.40 feet; thence North 01°49'32" West, 240.36 feet; thence North 28°08'06" East, 42.61 feet; thence North 08°56'18" West, 61.12 feet to the Southerly right of way line of State Road No. 16 (also known as Booth Road, a 66 foot right of way as now established); thence North 63°25'15" East, along said Southerly right of way line, 31.48 feet to the POINT OF BEGINNING.

LEGEND

DATE: 08-28-07

STATEwide COVERED MONUMENT

SHEETS: 1

RICHARD A. MILLER & ASSOCIATES

PROFESSIONAL LAND SURVEYSORS

3707 BEACH BLVD., JACKSONVILLE, FLORIDA 32216

(904) 276-7723 FAX (904) 271-8090