

RESOLUTION NO. 2001- 188

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING A CERTAIN PURCHASE AND SALE AGREEMENT FOR THE ACQUISITION OF PROPERTY REQUIRED BY THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT FOR MITIGATION TO OFFSET WETLAND IMPACTS AS A RESULT OF THE CONSTRUCTION OF HOLMES BOULEVARD WIDENING PROJECT.

RECITALS

WHEREAS, the owners of certain property have executed and presented to the County the Purchase and Sale Agreement in substantially the form attached hereto as Exhibit "A", incorporated by reference and made a part hereof, agreeing to sell the property described therein; and

WHEREAS, a portion of the 80-acre parcel is required for mitigation to offset the wetland impacts as a result of the Holmes Boulevard widening project; and

WHEREAS, it is in the best interest of the County to acquire the entire parcel and use the remaining property as a land bank for future County projects and mitigation requirements.

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

Section 1. The above recitals are hereby-determined findings of fact.

Section 2. The Chairman of the Board is hereby authorized to execute the attached Purchase and Sale Agreement, attached hereto.

Section 3. Upon closing of the above mentioned acquisition, the Chairman of the Board is to take action to close this Agreement and complete the purchase upon compliance with all terms of the Agreement with monies for such purchase coming from appropriate budgeted source. The Chairman of the Board is authorized to order a Phase I Environmental review of the property and closing shall not occur unless said review indicate no substantial contamination liability for the County.

PASSED and ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 11th day of September, 2001.

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

By: Marc Jacalone
Marc A. Jacalone, Chairman

ATTEST: Cheryl Strickland, Clerk

By: Patricia DeGrande
Deputy Clerk



EXHIBIT "A" TO RESOLUTION

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made and effective as of _____, 2001, by and between ST. JOHNS COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is 4020 Lewis Speedway, St. Augustine, FL 32095, ("County"), and Lysle E. Prichard II & Peter P Mestre, whose address is 3304 Shore Dr. St Augustine, Florida 32086 _____, ("Seller").

WITNESSETH:

WHEREAS, the County is desirous of purchasing a portion of the properties owned by the Seller and Seller is desirous of selling upon the terms and conditions hereinafter expressed; and

WHEREAS, it is in the public interest for the County to acquire fee simple ownership of the property, described in Exhibit "A", attached hereto, incorporated by reference and made a part hereof, (hereinafter "Property"), for a mitigation parcel to use for wetland impacts for St. Johns County projects.

NOW, THEREFORE, it is mutually agreed as follows:

1. Purchase Price and Deposit.

(a) The purchase price ("Purchase Price") is \$144,000.00, (\$1,800.00 per acre) subject to the prorations hereinafter provided. The Purchase Price shall be paid as follows:

<u>Payment</u>	<u>Due Date</u>	<u>Amount</u>
(i) Deposit to be held in Escrow by Escrow Agent (hereinafter defined)	Due within fifteen (15) days of Commission Approval (hereinafter defined)	\$ 15,000.00
(ii) Cash to Close	Closing Day	129,000.00

TOTAL PURCHASE PRICE

\$ 144,000.00

Payment of the Purchase Price shall be in cash or other immediately available funds.

2. Title Evidence

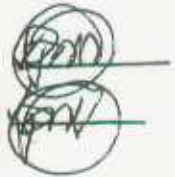
(a) Seller agrees, at its sole option and expense, to take all reasonable action to obtain within 45 days from the effective date, a title guarantee commitment ("Commitment") issued by a title company authorized to do business in Florida ("Title Company") agreeing to issue to Buyer, upon recording the Deed an owner's policy of title insurance in the amount of the Purchase Price, insuring Buyer's title to the Property subject only to the following (the "Permitted Encumbrances"):

(i) zoning, restrictions, prohibitions, regulations, ordinances and other requirements of any applicable governmental authority;

(ii) the lien of taxes and assessments for the calendar year of the Closing and all subsequent years;

(iii) restrictions and matters appearing on the plat of the Property; and

(b) Seller shall notify Buyer in writing ("Title Notice") within 10 days after Seller's receipt of the Commitment if it discloses any defects in the title to the Property, other than the Permitted Encumbrances or if the Commitment cannot be obtained. Any such defects appearing in the Commitment not timely noted by Buyer in the Title Notice shall be deemed to have been waived by Buyer. In the event the Commitment discloses any defect and such defect is timely noted in a Title Notice, Seller, at Seller's sole option and expense, shall have 60 days from the date it receives the Title Notice within which to cure such defect (with a corresponding extension of the Closing Date as necessary). If after the expiration of such 60-day period, Seller has not cured title defects, then in such event, Buyer's remedies shall be limited solely to either (x) accepting such title to the Property as Seller shall be able to convey, without adjustment to or diminution of the Purchase Price or (y) terminating this Agreement and receiving a return of the Deposit.



3. Identity and Obligation of Escrow Agent.

(a) Independent Title of St. Augustine, 2676 US 1 South, St. Augustine, FL 32086, shall be Escrow Agent, at no additional charge to Seller or Buyer but with the right to serve as underwriter for the title insurance policy.

(b) If there is any dispute as to whether Escrow Agent is obligated to deliver the Deposit, or any other monies or documents which it holds or as to whom such Deposit, monies or documents are to be delivered, Escrow Agent shall not be obligated to make any delivery, but, in such event, may hold same until receipt by Escrow Agent of an authorization, in writing, signed by all of the parties having an interest in such dispute

directing the disposition of same, or in the absence of such authorization, Escrow Agent may hold such Deposit, monies or documents until the final determination of the rights of the parties in an appropriate proceeding. If such written authorization is not given or proceeding for such determination is not begun and diligently continued, Escrow Agent may, but it not required to, bring an appropriate interpleader action or proceeding for leave to deposit such Deposit, monies or documents in court, pending such determination. Escrow Agent shall not be responsible for any acts or omissions unless the same constitutes gross negligence or willful misconduct and upon making delivery of the Deposit, monies or documents which Escrow Agent holds, in accordance with the terms of this Agreement, Escrow Agent shall have absolutely no further liability hereunder. In the event Escrow Agent places the Deposit, monies or documents that have actually been delivered to Escrow Agent in the Registry of the Circuit Court in and for the County in which the Property is located and files an action of interpleader, naming the parties hereto, Escrow Agent shall be released and relieved from any and all further obligation and liability hereunder or in connection herewith.

4. Closing. Unless extended by the terms of Section 2, or the other provisions hereof, the closing of the sale of the Property ("Closing") shall take place at the offices of the Escrow Agent, on or before October 31, 2001, ("Closing Date"), TIME BEING OF THE ESSENCE.

5. Prorations. Any real property taxes shall be prorated on the basis of the 2000 taxes at the highest allowable discount.

6. Seller's Representations. Seller represents to Buyer that he owns fee simple title to the Property and has full right and authority to execute this Agreement and consummate the transactions contemplated hereby subject to the terms, provisions and conditions hereof.

7. Closing Procedure and Documents.

(a) At the Closing, simultaneously with the payment of the Purchase Price by Buyer, Seller shall deliver or cause to be delivered to Buyer the following:

(i) a warranty deed ("Deed") conveying the fee simple title to the Property, subject only to the Permitted encumbrances and the matters referred to on the Commitment;

(ii) a FIRPTA affidavit;

(iii) an affidavit in the form required by the Title Company to delete the standard printed exception relating to the "gap" and to remove the standard printed exceptions for mechanics' lien and parties in possession other than Occupancy Tenants (except to the extent the same constitute Permitted Encumbrances).

(b) At the Closing, Escrow Agent shall deliver the Deposit and Buyer shall deliver the cash to close, to Seller, in accordance with Section 1. Buyer shall execute and

deliver to Seller such consents and authorizations as Seller may reasonably deem necessary to evidence the authority of Buyer to purchase the Property and to consummate all of the actions required to be taken by Buyer under this Agreement.

(c) At the Closing, Seller and Buyer shall mutually execute and deliver to each other a closing statement in customary form.

(d) At the Closing, Seller and Buyer shall execute such further documents and agreements as are appropriate or necessary to consummate the transaction as herein contemplated.

8. Closing Expenses. Seller shall pay the cost of the owner's title policy issued pursuant to the Commitment, the cost of recording the deed, all of the expenses in connection with recording fees.

9. Survey and Legal Description. Between this date and Closing, Buyer shall have the right to survey the Property. Buyer shall provide written notice ("Survey Notice") to Seller within 10 days after Buyer's receipt of any such new survey ("Survey") if the Survey discloses any encroachments or any other title defects affecting the Property (other than Permitted Encumbrances). All such encroachments or defects so noted in the Survey Notice are to be regarded for all purposes under this Agreement as title defects and, as such, are to be treated in the manner provided in Section 2. Any such title defects shown on the Survey and not timely noted in the Survey Notice to Seller shall be deemed to have been waived by Buyer.

10. Condition of Property and Buyer's Right of Inspection. Buyer shall have the right for ninety (90) days from the date of this Agreement ("Inspection Termination Date") to enter upon the Property for the purpose of physically inspecting the Property and conducting surveys, studies and tests or assessments including but not limited to Environmental Assessments, Real Estate Appraisal, and Engineering analysis to determine the Property's suitability for Buyer's intended purpose. Seller hereby gives Buyer the right to enter upon, test and inspect the Property at Buyer's sole cost and risk. Buyer agrees to provide Seller with copies of all reports conducted on the Property. If Buyer determines that the Property is unsuitable, Buyer shall give written notice to Seller advising of such unsuitability and electing to terminate this Agreement on or prior to the Inspection Termination Date. Such notice of termination must be given on or before the Inspection Termination Date. If such notice is timely given, the Deposit shall be returned to Buyer, and upon such return, this Agreement shall terminate. This Agreement is also contingent upon this property satisfying the St. Johns River Water Management Districts mitigation requirements for wetland impacts for St. Johns County projects.

11. Default. (a) Default by Seller. If Seller defaults in the performance of any of Seller's obligations in this Agreement or breaches any warranty or representation, Buyer may receive an immediate refund of the Deposit, and then at its option either may terminate this Agreement and sue for damages or sue for specific performance. (b) Default by Buyer. If Buyer defaults in the performance of any of Buyer's obligations in this Agreement for any reason, other than Seller's default or the termination of this Agreement pursuant to the specific provisions hereof, Seller will be entitled to receive the

Deposit as Seller's sole and exclusive remedy for any such default, Seller hereby waiving any rights it might otherwise have to sue for damages or specific performance, and this Agreement and the rights of the parties hereunder shall immediately and automatically terminate.

12. Survival. All covenants, terms, provisions, representations and warranties set forth in this Agreement, except as specifically provided otherwise herein, shall at the Closing be merged into the Deed.

13. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same Agreement.

14. Modification Must be in Writing. No modification or termination of this Agreement shall be valid unless executed in writing and signed by the applicable duly authorized representatives of Seller and Buyer.

15. No Waiver. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

16. Assignability. This Agreement may not be assigned by Seller or Buyer without the written consent of all parties.

17. Time. Time is of the essence of all provisions of this Agreement.

18. Governing Law and Venue. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Florida. The invalidation of one or more of the terms of this Agreement shall not affect the validity of the remaining terms. It is agreed venue for determination of such disputes shall be in St. Johns County.

19. Notices. Any notice hereunder must be in writing and delivered personally or by United State Mail, Registered or Certified, Return Receipt Requested; United State Express Mail; or Federal Express or equivalent courier service, and shall be effective only if and when received by the party to be notified. For purposes of notice, the addresses of the parties shall be as set forth below or as may be designated by notice to the other from time to time.

Seller:

C/o Mr. Tim Cowart
Tim Cowart & Associates
4475 US 1 South, Suite 104
St. Augustine, FL 32086

Buyer:

St. Johns County
Ben W. Adams, Jr., County Administrator

4020 Lewis Speedway
St. Augustine, FL 32095

Escrow Agent:

Independent Title of St. Augustine
C/o _____
2676 US 1 South
St. Augustine, FL 32086

20. Entire Agreement. This Agreement constitutes the entire agreement between the parties and there are no agreements, representations or warranties, oral or written which have not been incorporated herein.

21. Applicability. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and, to the extent that assignment is permitted hereunder, their assigns.

22. Commissions Due. Seller agrees to pay all real estate commissions that may be owed as a result of this transaction.

23. Board of County Commission Approval. This Agreement is subject to the adoption of a resolution by the St. Johns County Commissioners authorizing the County Administrator to execute this Agreement and approving the performance of this Agreement by Buyer.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement effective as of the date first above written.

BUYER:

ST. JOHNS COUNTY, FLORIDA

Witness Name _____

Witness Name _____

Ben W. Adams, Jr.
County Administrator

SELLER:

Ileana Tabernero
Witness Name ILEANA TABERNEO

Rodriguez
Witness Name Luis S. Rodriguez

J.M. Cowart
Witness Name J.M. Cowart

Bonnie Cowart
Witness Name Bonnie Cowart

Mark Mest

Rock & Pritchard

Mary M Pritchard

Deposit received by Independent Title of St. Augustine, (Escrow Agent), which the Escrow Agent agrees to retain in accordance with the terms and conditions of the within Agreement.

ESCROW AGENT

By: _____
Name: _____
Title: _____
Date: _____

Exhibit A

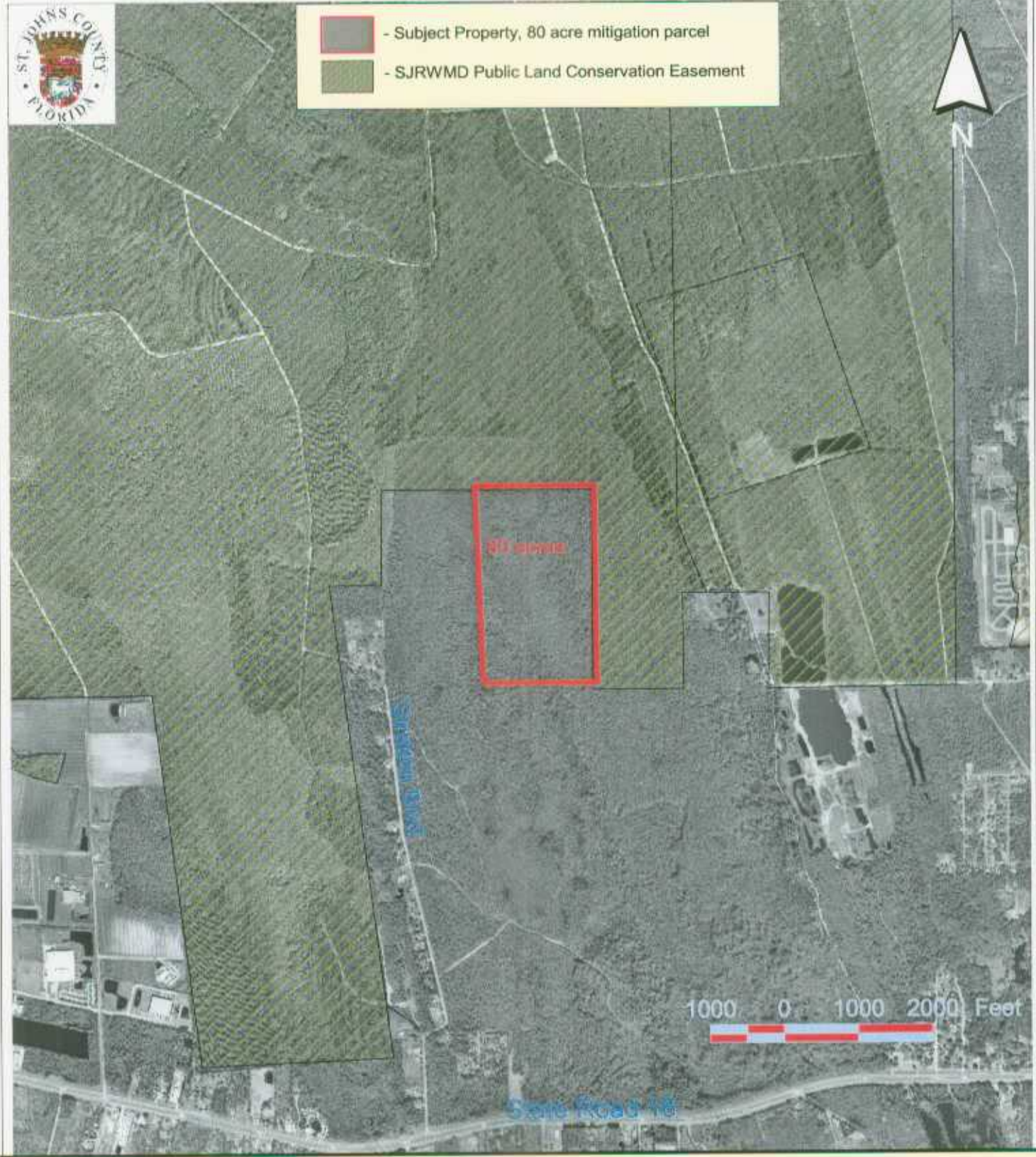
Government Lot 10 and Government Lot 15 Section 33, Township 6 South Range 29 East, St. Johns County, Florida, more particularly described as follows:

Commence at the Southeast corner of said Section 33; thence North 89 degrees 49 minutes 12 seconds West, 1326.95 feet to the Point of Beginning; thence North 89 degrees 49 minutes 12 seconds West 1325.77 feet; thence North 00 degrees 22 minutes 12 seconds East, 2631.45 feet; thence North 89 degrees 54 minutes 05 seconds East, 1320.56 feet; thence South 00 degrees 15 minutes 22 seconds West, 2637.86 feet to the Point of Beginning and being the last call of this description.

Said described parcel contains 80.03 acres more or less.

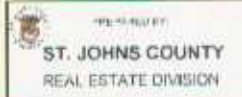


- Subject Property, 80 acre mitigation parcel
- SJRWMD Public Land Conservation Easement



**80 Acre Mitigation Parcel, Next to Cummer Tract
located to the North-East of Stratton Road
Section 33, Twnshp 6, Rng 29**

These address data provided herein are from multiple sources in the varying degrees of reliability. This map creation should be used for estimate purposes only. The St. Johns Real Estate Division disclaims all responsibility for the accuracy or completeness of the data shown.



THE ST. AUGUSTINE RECORD

PUBLISHED EVERY MORNING MONDAY THROUGH FRIDAY, SATURDAY AND SUNDAY MORNING
ST. AUGUSTINE AND ST. JOHNS COUNTY, FLORIDA

STATE OF FLORIDA,
COUNTY OF ST. JOHNS

Before the undersigned authority personally appeared **LINDA Y MURRAY**
who on oath says that she is an Accounting Clerk of the St. Augustine Record,
a daily newspaper published at St. Augustine in St. Johns County, Florida:
that the attached copy of advertisement, being a

PUBLIC NOTICE

In the matter of **PROPOSED PURCHASE**

MITIGATION PROPERTY BY ST JOHNS COUNTY

in the _____ Court, was published in said newspaper in the issues of
AUGUST 7, 2001

Affiant further says that the St. Augustine Record is a newspaper published
at St. Augustine, in said St. Johns County, Florida, and that the said newspaper
heretofore been continuously published in said St. Johns County, Florida, each
day and has been entered as second class mail matter at the post office in the
City of St. Augustine, in said St. Johns County, for a period of one year preceding
the first publication of the copy of advertisement; and affiant further says that
she has neither paid nor promised any person, firm or corporation any discount,
rebate, commission or refund for the purpose of securing the advertisement for
publication in the said newspaper.

Sworn to and subscribed before me this **8TH** day of **AUGUST** 2001
by *Linda Y Murray* who is personally known to me
or who has produced **PERSONALLY KNOWN** as identification.

Zoe Ann Moss
(Signature of Notary Public)



Zoe Ann Moss
MY COMMISSION #SC841814 EXPIRES
August 22, 2001
BONDED THRU TROY FAIN INSURANCE, INC.

Zoe Ann Moss

**NOTICE OF PROPOSED
PURCHASE OF MITIGA-
TION PROPERTY BY
COUNTY**

On Tuesday, September 11, 2001, 1:30 p. m., the Board of County Commissioners of St. Johns County, Florida, in the St. Johns County Auditorium, County Administration Building, #4020 Lewis Speedway (County Road 16-A and U.S. #1 North) St. Augustine, Florida, will consider and may take action on a Resolution approving a Purchase and Sale Agreement for the acquisition of an 80-acre parcel of land located to the East of Stratton Road for mitigation purposes in connection with the Holmes Boulevard Widening project. The Purchase and Sale Agreement is between St. Johns County, a political subdivision of the State of Florida and Lysle Pritchard and Peter Mestre.

The proposed legal descriptions and maps of the real property to be acquired are shown in the Exhibit of the Resolution which is available for inspection by the public in the Office of the Clerk of Courts, Ex-Officio Clerk to the Board of County Commissioners located in the St. Johns County Administration Building #4020 Lewis Speedway, St. Augustine, Florida.

If a person decides to appeal any decision made with respect to any matter considered at the meetings/hearings he/she will need a record of the proceedings, and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

**NOTICE OF PERSONS
NEEDING SPECIAL
ACCOMMODATIONS AND
TO ALL HEARING
IMPAIRED PERSONS:** In accordance with the Americans with Disabilities Act, persons needing special accommodations to participate in this proceedings should contact, ADA Coordinator, at 904-823-2501 or at the County Administration Building, #4020 Lewis Speedway, St. Augustine, Florida 32095. For hearing impaired individuals: Florida Relay Service: 1-800-955-8770 no later than 5 days prior to the date of the meeting.

**BOARD OF COUNTY
COMMISSIONERS OF ST.
JOHNS COUNTY, FLORIDA
CHERYL STRICKLAND,
ITS CLERK
By: Patricia DeGrande,
Deputy Clerk
L1723-1 Aug 7, 2001**