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**RESOLUTION NO. 2002- 134**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE CLERK OF THE COURTS TO FILE THE SURVEY MAP OF NASSAU STREET CLAIMING A VESTED INTEREST IN ST. JOHNS COUNTY IN THE RIGHTS-OF-WAY DESCRIBED IN THIS SURVEY BY PERSCRIPTIVE RIGHTS OF THE PUBLIC IN ACCORD WITH THE PRINCIPLES SET FORTH IN DOWNING V. BIRD, 100 SO.2D 57 (FLA. 1950)**

**WHEREAS**, the Board of County Commissioners of St. Johns County, Florida, adopted County Resolution No. 88-73 which established a list of roads long considered to be County Roads with little or no documentation of recorded County ownership; and

**WHEREAS**, the Board of County Commissioners, pursuant to County Resolution No. 88-73, has instructed County Staff to obtain documentation in order to justify continued County maintenance of said roads; and

**WHEREAS**, Nassau Street, as described in **Exhibit A**, attached hereto, and incorporated herein, is one of the roads that County staff has documented as warranting continued County maintenance; and

**WHEREAS**, in Downing v. Bird, 100 So.2d 57 (Fla. 1950), the Florida Supreme Court set forth criteria for the public to establish a prescriptive easement; and

**WHEREAS**, the criteria set forth in Downing v. Bird, supra, is as follows:

- 1) actual, continuous uninterrupted use by the public entity for the full prescriptive period of twenty (20) years;
- 2) that the use be adverse under a claim of right, and either be with the actual knowledge of the owner, or so open, notorious, and visible that knowledge of the use is imputed to the owner;
- 3) that such use be inconsistent with the owner's use and enjoyment of his land and must not be a permissive use; and
- 4) that such use be related to a certain limited and defined area of land, or if for a right-of-way, the use be of a definite route with a reasonably certain line, width, and termini; and

**WHEREAS**, St. Johns County can demonstrate that Nassau Street meets each of the criteria, set forth in Downing v. Bird, supra; and

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**WHEREAS**, the public has been continuously using Nassau Street without permission of the underlying land owners for in excess of twenty (20) years; and

**WHEREAS**, County Road and Bridge Supervisor, Johnny Newsome, has stated in a memo (**Exhibit B**, attached hereto, and incorporated herein), that the County has been responsible for maintaining Nassau Street for the last twenty-five (25) years; and

**WHEREAS**, by filing the survey map with the Clerk of the Courts of St. Johns County, the rights-of-way as shown in the survey that is included as Exhibit C, attached hereto, and incorporated herein;

**WHEREAS**, it is in the best interest of St. John's County to acquire ownership of Nassau Street, and that such acquisition will benefit the citizens of St. Johns County.

**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 by reference into the body of this Resolution, and such recitals are adopted as findings of fact.

Section 2. The Chair of the Board of County Commissioners, and the Clerk of the Courts are hereby authorized to file the attached survey map of Nassau Street in the Public Records of St. Johns County, Florida.

Section 3. The Clerk is instructed to record this Resolution in the Public Records of St. Johns County, Florida.

**PASSED AND ADOPTED**, this 16<sup>th</sup> day of July, 2002.

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

By: James E. Bryant  
**James E. Bryant, Chairman**

**ATTEST: Cheryl Strickland, Clerk**

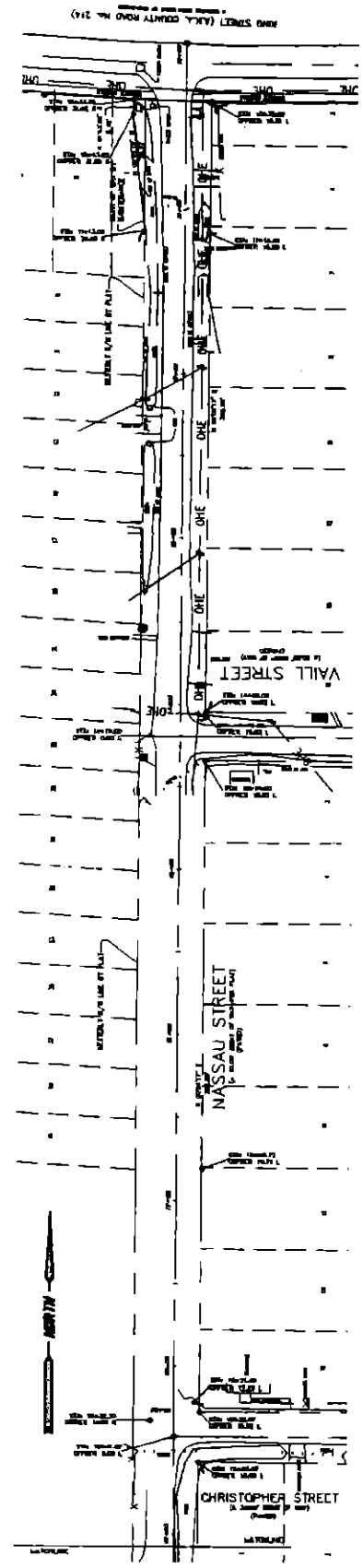
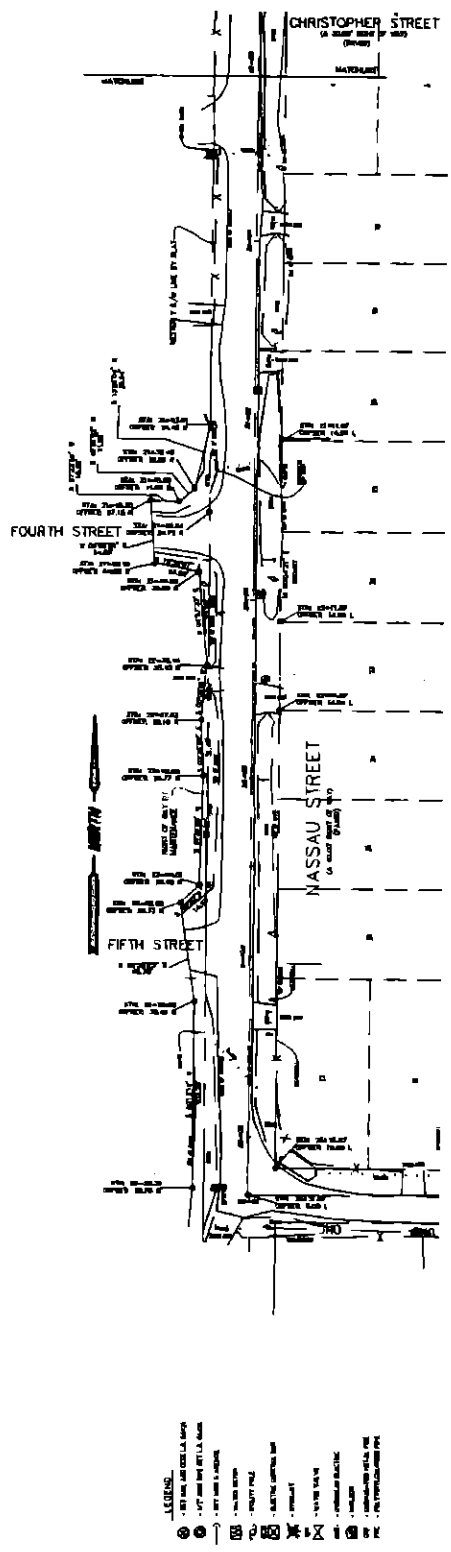
Cheryl Strickland  
Deputy Clerk

RENDITION DATE 7-18-02

MAP SHOWING SPECIFIC PURPOSE SURVEY OF:

A PORTION OF NASSAU STREET  
BLOCK 1 OF THE McLAUGHLIN ADDITION  
SECTION 45, TOWNSHIP 7 SOUTH, RANGE 29 EAST  
ST. JOHNS COUNTY, FLORIDA

NOT TO SCALE



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| <p>PROJECT NUMBER<br/><b>863-001</b></p> <p>DATE<br/><b>12/27/73</b></p> <p>SCALE<br/><b>AS SHOWN</b></p> <p>BY<br/><b>J. W. BROWN</b></p> | <p>CERTIFIED TO<br/>ST. JOHNS COUNTY DEVELOPMENT SERVICES<br/>ST. JOHNS COUNTY ENGINEERING</p> | <p>PRIVETT-NILES and ASSOCIATES, INC.<br/>SURVEYING AND MAPPING CONSULTANTS<br/>LICENSED SURVEYORS<br/>3000 N. PARKWAY FOR LEXON BOLLINGER, SUITE 70<br/>ST. AUGUSTINE, FLORIDA 32084<br/>(800-4) 888-6870</p> |
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IT IS HEREBY CERTIFIED THAT:  
THE RIGHT OF WAY SHOWN HEREON IS VESTED IN  
ST. JOHNS COUNTY, A POLITICAL SUBDIVISION OF THE  
STATE OF FLORIDA BY PRESCRIPTIVE RIGHTS OF THE  
PUBLIC, DOWNING V. BIRD 100 So. 2d 57 (Fla. 1950)

BOARD CHAIR

CLERK

Exhibit "B" to Resolution

AFFIDAVIT

STATE OF FLORIDA  
 COUNTY OF ST. JOHNS

On this day before me, the undersigned authority, personally appeared Johnny Newsome, Road and Bridge Supervisor, who being first by me duly sworn, deposes and says that the County has been maintaining Nassau Street for the last 25 years and the public has continuously used the road during this time. This maintenance includes digging ditches, road grading and stabilization.

FURTHER AFFIANT SAYETH NAUGHT.

*Johnny Newsome* 6-11-02

STATE OF FLORIDA  
 COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of June 2002, by Johnny Newsome, Road and Bridge Supervisor, who is personally known to me.

*Laurie C. Braddock*  
 Notary



Laurie C. Braddock  
 Commission # CC 928860  
 Expires April 17, 2004  
 Bonded Thru  
 Atlantic Bonding Co., Inc.